Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

A COMPENDIUM, CONVENIENTLY ARRANGED AND ILLUSTRATED, PREPARED WITH CARE AND DILIGENCE BY PETER AVANZINI, ROMAN PRIEST, DOCTOR OF PHILOSOPHY, THEOLOGY, AND BOTH LAWS, namely: Legal and more solemn acts, emanating directly from the Supreme Roman Pontiff; acts among those which can be made public by law, whether they are Decrees, or Instructions, or Responses, or other similar matters; especially, expositions and resolutions of cases from various Sacred Congregations of Cardinals, contributing to the accurate understanding and observance of ecclesiastical law, carefully compiled in a concise form: and finally, other legal matters, by which those things which may present difficulty in the aforementioned acts are suitably explained, or which further contribute to the knowledge of existing law: for the benefit of those who diligently seek to understand the laws of the Church, and who labor diligently in the governance of the Christian flock, or in cultivating the Lord's vineyard.

ROME, AT THE PRINTING PRESSES OF THE POLYGLOT OFFICE OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, AND BY PETRUS MARIETTI, MEMBER OF THE SAME SACRED CONGREGATION, ADMINISTRATOR, MDCCLXXVII.

The right of property shall be vindicated.

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[*Latin ed. p. 2*]

OBSERVATION: Our publications, from the very beginning, have been issued under that circumlocution, so that the Readers, if they were to see the simple title "Acta Sanctae Sedis," might not suppose that these publications, which are excerpted from those documents which are officially published among the Readers at the Holy See, are official publications, as they say. But since the Readers, through five years of experience, know what these publications contain, namely, the principal Acts of the Holy See, which can conveniently be made public; and since we have often seen these same publications cited by others under the simple title, "Acta Sanctae Sedis"; therefore, having omitted that cumbersome circumlocution at the beginning, we shall henceforth use the shorter title, "Acta Sanctae Sedis," meaning the same thing. First reprinting, 1968, Johnson Reprint Corpora-

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tion. Printed in the United States.

[*Latin ed. p. 3*]

3 FROM THE PROCEEDINGS OF THE ECUMENICAL COUNCIL OF THE VATICAN! We, anticipating the publication of the sixth volume of our chronicles, concerning the celebrated Fourth Session of the Vatican Council (which, it almost seems, caused the Council itself, with such a large gathering of Bishops, to be convened), are permitted to foresee the most fortunate outcomes, even though certain events in public affairs may appear unfavorable. We firmly believe that the new splendor, that external glory, with which, through a singular divine arrangement, the authority of the Roman Pontiff has been endowed, and which has been so solemnly manifested throughout the entire world since the beginning of the conflict, is not barren or empty, but rather, through the divine assistance which has so ordained it, is most powerful. For it will be the brightest beacon, indicating the port of salvation, into which even the waves of the most turbulent sea must break. "Woe to him who resists the Angel of the Vatican!" REGARDING WHAT PRECEDED THE FOURTH SESSION, FROM THE THIRD SESSION. We assure our readers that, in all that has been narrated as having occurred within the halls of the Council, we give full credence, and that events transpired as we have described; and therefore, we will more fully explain the historical order of events, so that the many and great calumnies licentiously spread about this most important Vatican Session may seem to vanish. The defenses of the Holy See, when sought from other sources, are often insufficient against the darts of calumnies; but its most powerful defense is the true exposition of events themselves. After the public Session III, held on Sunday, April 24th, in the Octave of Easter, the revised draft of the *Parvo Canon* was sent to the Fathers.

[*Latin ed. p. 4*]

4. From the *Acta*, concerning which the Fathers had already spoken according to the first method: and simultaneously, the Congregation was informed by the following Notice. NOTICE: "Along with this sheet, a revised draft of the small catechism is being sent; concerning which, in the next general Congregation, which will be held on Thursday of this week, April 29th of the current month, discussion will take place according to number 7 of the Decree of February 20th. Therefore, Most Reverend Fathers, who wish to speak about the revised draft, according to number 8 of the same Decree, should previously indicate their intention to speak." From the Secretariat of the Vatican Council, April 25, 1870. JOSEPH E. P. S. HIPPOLYTE, Secretary of the Council. On April 29th, Thursday, the 47th general Congregation was held; two copies of the dogmatic Constitution on the Catholic Faith were distributed to each Father, which was approved and confirmed in the Third Session. After a report made in the

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name of the Deputation for ecclesiastical discipline by the Most Reverend Father Francis Xavier Wierzchleyski, Archbishop of Leopolis, of the Latin rite, the discussion of the revised draft of the Small Catechism began, and the following spoke about the draft in general: His Eminence Cardinal Francis Donnet, Archbishop of Bordeaux, who concluded his remarks by strongly expressing his desire (which was also the desire of many Fathers, repeatedly conveyed to the Holy Father through written petitions), that the draft concerning the infallibility of the Roman Pontiff be proposed to the Synodus as soon as possible. Let the readers remember that a formula had already been distributed to the Fathers from the Notice of March 6, 1870, which we explained in Volume V, pages 405 and following; and that it was to be inserted after chapter XI of the draft concerning the Church of Christ, which dealt with the Primacy of the Roman Pontiff; let them remember that, in the same Notice, the Presidents had urged the Fathers to submit their observations in writing within ten days regarding said chapter XI and regarding the prepared formula concerning the infallibility of the Roman Pontiff: a time which, we know, was also extended at the request of the Fathers.

[*Latin ed. p. 5*]

VATICAN COUNCIL. 5. Then, the Most Reverend Cardinal Rauscher, Archbishop of Vienna, spoke through the Most Reverend Bishop He of Rottemburg, who read his written statement. Then, the following was read: "To the Most Reverend and Venerable Fathers. Many Fathers of the Council have repeatedly and earnestly requested that, before any other schemes concerning faith or discipline, the matter of the infallibility of the Roman Pontiff be considered, especially because, in recent times, grave anxieties have been aroused in the hearts of the faithful everywhere concerning this most important doctrine, and their consciences are troubled, and the peace and tranquility of religious society are disturbed. Therefore, it has seemed necessary to submit to the examination of the Fathers, first of all, the scheme concerning the Roman Pontiff, containing the doctrine of his Primacy and infallibility. Therefore, now are distributed the observations, which have been given in writing by the Most Reverend Fathers concerning the chapter of the Roman Pontiff: his Primacy, which will be added in the general congregation tomorrow to the observations in writing given by the Fathers concerning the scheme of the infallibility of the Roman Pontiff, so that they may diligently examine them, until, in due time, the scheme, reformed by the Congregation for the Doctrine of the Faith, is presented (1)." (1) It is said that many Fathers of the Council, upon hearing this announcement, immediately showed a certain joy; and there was no one who did not exclaim with raised voice: "Thanks be to God!" Outside the synod, as is well known, freedom of writing on this topic of Catholic doctrine had reached such a point that it stirred up the hearts of zealous

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men, and created scandal for the unlearned; and the reason and purpose of some to act in this way had reached such a point that they sought to capture votes for their own views, and also to incite civil authority with various pretexts, so that the Holy See might be deterred, which, it is said, they were reluctant to write about, so that this doctrine might not be defined. Therefore, even outside the synod, the minds of all those who held Catholic views could not but be lifted up, upon hearing this synodal announcement, so that the Catholic truth, so exposed to ridicule, might be restored to its proper light as soon as possible. Especially because a prolonged delay threatened a grave disturbance, and the synod could not be indefinitely postponed, given the constantly wavering state of public affairs. While, for those who were well and truly minded, this was hope and the ultimate refuge, it was the opposite for those who sought to persuade themselves and others otherwise.

[*Latin ed. p. 6*]

6. From the *Acta*, observations were made concerning the chapter on the Primacy of the Supreme Pontiff. The discourses of the Fathers concerning the *Parvo Catechismo* were continued, and the following spoke: Peter Rota of Guastalla; Augustine Verot, formerly Bishop of Savannah (from March 21st); Latin Gastaldi of Saluzzo. On April 30th, a congregation of 48 was held; observations were distributed, which the Fathers had written concerning the schema on the Infallibility of the Supreme Pontiff. The discourses of the Fathers concerning the *Parvo Catechismo* were continued, and the following spoke: Louis Debreuil, Archbishop of Avignon; Jacques Bailles, formerly of Luçon; Peter Cantimorri of Parma. The discussion of the schema in general was declared closed. Then, the following spoke concerning the parts of the schema: Frederick Marguerye of Autun; William De Ketteler of Mainz; William Vaughan of Plymouth; William Clifford of Clifton; Matthias Eberhard of Treves; John Baptist Zwerger of Secoviae. Many Fathers, as I mentioned at the beginning, on the same day, April 29th, sent a common written letter, thus giving thanks to the Most Holy Father.

"MOST BLESSED FATHER,

"The pain that compelled us recently to supplicate before Your Holiness was so great, that now we are impelled with such joy to offer our most humble thanks. For indeed, like a violent storm, the winds of opinion have stirred the minds; the infallibility of the Holy See was placed as a sign of contradiction; and thus, this prerogative of hers was attacked by many, so that even the primacy of Peter and his successors, that is, the fundamental rock of the Church, was being challenged.

"Among these enemies of the Church were those weak in faith, those

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moved by writings, or by art, or by authority, who had doubts; and the faithful, truly pious, were all weighed down with great sorrow.

"But, alas! You have brought a most effective remedy, Most Blessed Father, by allowing that decree to be proposed to the Council, by which alone this great storm can be calmed. For with this single proposition, the minds of the afflicted are raised up, the audacity of those who attack the Holy See is broken, and the hope of the much-desired concord arises with certainty.

"Therefore, Your words, Most Blessed Father, will accomplish in this our stormy age what was once accomplished on the sea, when the ship was tossed by a storm while Christ slept; but when He arose and commanded the winds, there was a great calm.

"That we may experience this as soon as possible, we implore Your Holiness with prayers before God, of whom You are the Vicar; and we, for our part, will join our prayers with Yours, so that, since our cause is common, our joy may also be common, and 'that, with Your prerogatives safely established, we may rejoice that our authority also has been confirmed among the people.'

"Rome, on the feast of Saint Peter the Martyr, 1870."

[*Latin ed. p. 7*]

VATICAN COUNCIL. 7 One of the Most Reverend Fathers of the Deputation for ecclesiastical discipline matters responded to certain difficulties; and a complete discussion of the revised draft of the Small Catechism was declared. On May 4th, Thursday, a Congregation of 49 was held, and the following report was presented by the Judges of Excuses: "Certain Fathers of the Council, for serious reasons, requested leave to depart from the Council without the obligation to return, namely: Anselm Llórente, Bishop of Saint Joseph of Costa Rica, due to a progressively worsening infirmity; Lachlan Brown, Bishop of Salop; likewise, due to ill health; John Brady, Bishop of Perth in Australia, due to a continuously increasing serious infirmity; José Salas, Bishop of the Most Holy Conception of Chile, due to a serious infirmity of gout, from which he suffers greatly; John Langevin, Bishop of Saint German of Rimouski, due to very serious spiritual and temporal necessities; Colinus Mac Kinnon, Bishop of Arichat, due to a continuously increasing infirmity; Peter Mac Intyre, Bishop of Carolinopolis, for the same reason; Peter Severini, Bishop of Sapp; due to a well-known serious infirmity; Ferdinand Arguelles y Miranda, Bishop of Astorga, likewise due to a serious infirmity; José Gelabert, Bishop of Paran; due to a long-standing serious infirmity." The Judges of Excuses acknowledged the reasons for departure as sufficiently founded and proven, and advised that the petitions of the aforementioned Bishops should be heard." The Fathers manifested their assent by rising. John Zwerger, Bishop of Secovi, on behalf of the Deputation for ecclesiastical discipline matters, explained what the Deputation itself initially thought about the amendments proposed in the general Congre-

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gation, and subsequently published (which had been sent to the Fathers at home), and then about other amendments proposed in another way to the Deputation. Then votes were taken on the amendments, and these were approved according to the opinion of the Deputation, with only a few Fathers dissenting. The following NOTICE was read: "Since in this draft, being very brief and straightforward, a special discussion by the Presidents was not proposed in parts, but rather a discussion of the entire draft as a whole; therefore,..."

[*Latin ed. p. 8*]

$ FROM THE ACTS, it is also determined that the votes, concerning not merely individual passages of the text, but concerning the entire scheme, are to be taken simultaneously. Since it would be quite inconvenient for the Fathers of Rome, for this very reason of voting on this scheme, to return here tomorrow, and since the amendments, accepted today, can be easily inserted in their proper places, therefore we shall now proceed immediately to taking the votes on the entire scheme, as prescribed in § 14 of the Decree of February 20th. These votes will be expressed orally, using the words "Placet" or "Non Placet," or, as has been done previously, using the words "Placet iuxta modum," along with a written statement of the manner or condition that each individual desires. If someone is unable to express this manner and write it down immediately, because they did not anticipate that the act of voting on the entire scheme would take place in today's Congregation, then when asked for their vote, they may say "Placet iuxta modum," and they must send the written statement of the manner to the Secretary within the next two days. Therefore, now the votes of each of the Fathers will be taken in the usual manner, and those who approve the entire scheme of the Small Catechism with the amendments admitted today will indicate this by saying "Placet."

The Cardinals and Fathers were called from the rostrum by the Reverend Under-Secretary by name, and by title, and after they had given their votes, the count was made, and the following report was read. "We inform you that of the 591 Fathers present, 491 gave their votes with the word "Placet," then 56 with the words "Non Placet," and 44 with the words "Placet iuxta modum," and due consideration will be given to the latter." The death of the Most Reverend John Devoucoux, Bishop of Ã‰vreux, who had returned to his diocese some time ago due to illness, was announced, and his soul was commended to the votes of the Fathers. A notice was then read concerning the next General Congregation to be announced by a printed leaflet, in which it would also be determined what should be done in that Congregation. It is of the following tenor: NOTICE "Attached to this leaflet is a draft of the dogmatic Constitution on the Church of Christ, revised

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according to..."

[*Latin ed. p. 9*]

VATICAN COUNCIL. 9. Written messages from the Fathers were sent, along with a report pertaining to them. "The next general assembly will be held on Thursday of this week, on the 13th of the current month of May, in which two reports will be presented. The first will concern the conditions added by some Reverend Fathers in their recent votes on the draft of the Small Catechism, which, along with the draft of the Small Catechism, amended according to the Fathers' admissions, will be distributed as soon as possible. The second will concern the first dogmatic constitution on the Church of Christ, which is now being distributed. In the first general assembly, which will follow this one, there will be a general discussion of the draft of this first dogmatic constitution on the Church of Christ; and the Reverend Fathers who wish to speak on this draft may, in the meantime, indicate their intention to speak in the usual manner, but they are again reminded to strictly follow the prescribed procedure, namely, item 7 and Section D of the decree of February 20th of this year." From the Secretariat of the Vatican Council, May 9, 1870. JOSEPH E. P. S. HIPPOLYTE, Secretary of the Council. On May 13th, Thursday, the 50th assembly was held, and the following report was read, presented by the Judges of Excuses: "Several Fathers of the Council have requested leave to absent themselves from the Council for serious reasons: Peter Flavianus Matati, Bishop of Jezirensis of the Syrian rite, due to persistent infirmity. - John Boset, Bishop of Emeritensis, due to a grave necessity of his diocese and persistent infirmity. - Thomas Furlong, Bishop of Ferns in Ireland, due to a more serious infirmity contracted over a long period. - John Huerta, Bishop of Puno in Peru, due to poor health and a very serious need that has recently arisen in his church. - William Lanigan, Bishop of Gulbornensis in Australia, due to the most serious needs of his recently established diocese. - Peter Apelian, Archbishop of Marascensis; Melchior Nasarian, Archbishop of Mardensis. - John Ghiureghian, Bishop of Trapezus degli Armeni, due to the danger to souls and the spiritual needs of the faithful in his dioceses. - Sylvester Guevara, Archbishop of St. Jacob' of Venezuela, due to a more serious infirmity."

[*Latin ed. p. 10*]

10 FROM THE ACTS: "The judges of the Exemptions acknowledged that the reasons alleged for departing were sufficiently founded and proven, and they advised that the petition of the aforementioned Bishops should be heard." The Fathers, rising, manifested their assent. The first President then declared: "Now, a report should be heard concerning the conditions added by certain Roman Fathers regarding the voting on the schema of the Small Catechism, which have already been printed and distributed. (For, they

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had sent home with the schema of the Small Catechism, according to the amendments admitted by the Congregation General for Reform). This report will be presented by the Most Reverend Monsignor Stephen Marilley, Bishop of Lausanne and Geneva, in the name of the Deputation for Ecclesiastical Discipline." After the report was given, the first President immediately added: "Having concluded this matter, let us proceed to consider the schema of the First Dogmatic Constitution on the Church of Christ, which has been sent home for examination (for it was sent home along with a report of observations already written on this matter), beginning with the report which will be presented on this schema by the Most Reverend Monsignor Louis Pie, Bishop of Poitiers, in the name of the Deputation for the Living Faith." The report was given for almost an entire hour. On May 14th, Saturday, the General Congregation 51 was held; the following NOTICE was read: "Before the beginning of the discussion, it will be helpful to recall the notice already given, so that, in no way, signs or expressions of approval or disapproval, customary in profane places or actions, should be given, since they are entirely unsuitable for this sacred place and assembly." The general discussion on the entire schema of the First Dogmatic Constitution on the Church of Christ began, and the following spoke: His Eminence Cardinal Constantinus Patrizi, Bishop of Porto; Saint Rufinus; Saint Alemany, Archbishop of Barcelona; Saint Francis, Archbishop of Aliquot; Saint Piatoli, Archbishop of Messina; Saint Dusmet, Archbishop of Catania; and Francis Victor Rivel, Bishop of Dijon.

[*Latin ed. p. 11*]

VATICAN COUNCIL. The following were present: H.nensis - Io. Ranolder of Veszprém; Bernardus Conde y Corral of Zamora, in Spain; Petrus Celesia of Patti. It was announced that the Supreme Pontiff would, on the next Tuesday at 10 o'clock in the morning, bestow the prizes for the Roman Exposition in the church of Saint Mary of Angelorum, and the Most Reverend Fathers were reminded to attend in their ecclesiastical attire and to enter through the monastery gate. On May 17th, Wednesday, the general congregation numbered 52; the catalogue of all the Most Reverend Fathers who have the right or privilege of sitting in the Vatican ecumenical council was distributed (1). The names of thirty-five Fathers were read who had requested permission to speak regarding the schema that had been generally considered. Those who spoke were: Victor Dechamps, Archbishop of Mechlin, Primate of Belgium, one of the Fathers of the Deputation for matters of faith, to respond to the difficulties and observations of the preceding speakers; August David, Bishop of Briocensis; Io. Bapt. Greith of Saint Gall; los. Hefele of Rottemburg. It was announced that the Most Reverend Father Franciscus de Cardoso, Bishop of Olinda, in Brazil, had passed away, and his soul was commended to the prayers of the Fathers. On May 18th, Thursday, the general congregation numbered 58, and the names of twenty-

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one Fathers were read who had requested permission to speak regarding the schema that had been generally considered. Those who spoke were: Emmanuel Garcia Gil, Archbishop of Caesaraugustanus, one of the Fathers of the Deputation, to respond to the difficulties and observations of the preceding speakers; Emmanuel Cardinal Frid. Schwarzerberg, Archbishop of Pragensis; Emmanuel Cardinal Fr. Donnet, Archbishop of Burdigalensis; Emmanuel Cardinal los. Othm. Rauscher, Archbishop of Vindobonensis, through the Bishop of Rottemburg, who read his address. On May 19th, Friday, the general congregation numbered 54, and the names of six Fathers were read who had requested permission to speak regarding the schema that had been generally considered.

(1) We have provided such a catalogue to our readers on page 515 and following in volume V. As we stated there, this catalogue is, above all others, an improvement! We have corrected, as far as we deemed necessary, some minor errors or some variations that occurred before we published it. It is arranged according to the order of dignity and promotion, with numbers corresponding to the seat assigned to each Father in the council hall. Each seat in the council hall has a number inscribed upon it, which remains constant; but the numbered seats remain vacant if a Father does not attend Rome, or if he departs.

[*Latin ed. p. 12*]

12 From the *Acta*: There spoke: His Eminence Cardinal Paulus Gullen, Archbishop of Dublinensis, who also responded to the difficulties raised in the two preceding Congregations; His Eminence, the Most Reverend Ignatius Moreno, Archbishop of Valladolid; and Gregory, Patriarch of Antioch, of the Greek Melchite rite. On May 20th, a Feria VI [weekday], the general Congregation number 55 was held; ten names of Fathers were read who had requested permission to speak regarding the schema. There spoke: His Eminence, Simor, Archbishop of Strigoniensis, Primate of Hungary; His Eminence, Mac Hale, Archbishop of Tuamensis; Father Leahy, Archbishop of Casseliensis, who, having been invited to speak, abstained; Spiridion Maddalena, Archbishop of Corcyrensis; and Georgius Darboy, Archbishop of Parisiensis. On May 21st, a Saturday, the general Congregation number 56 was held: the names of seven Fathers were read who had requested permission to speak regarding the schema in general. There spoke: Father Leahy, Archbishop of Casseliensis, from the Deputation, to respond to certain observations; Andreas Raess, Archbishop of Argentinensis; Petrus Trucchi, Archbishop of Foroliviensis; and Father Petagna of Castri Maris. On May 23rd, a Feria II [weekday], the general Congregation number 57 was held; eight names of Fathers were read who had requested permission to speak regarding the schema in general. There spoke: Ant. Hassun, Patriarch of Ciliciensis of the Armenian rite, from the Deputation, to respond to certain observations; Guill.

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de Ketteler, Archbishop of Moguntinus; Ant Cousseau, Archbishop of Engolismensis, through Carolum Fillion of Cenomanensem, who read his written statement; and Iac. Ginoulhiac, Archbishop of Gratianopolitanus. On May 24th, a Feria III [weekday], the general Congregation number 58 was held; the following report was read, presented by the Judges of Excuses: "Certain Fathers of the Council requested leave to depart from the Council for grave reasons, namely: His Eminence, Laroque, Bishop of S. Hyacinthi in the federated states of Americae septentrionalis, due to the grave necessities of his recently established diocese; Dionysius Scelhot, Archbishop of Ateppensis of the Syrian rite, due to his infirmity and the grave needs of his church; Petrus Tilchian, Bishop of Brusensis of the Armenian rite, due to a grave danger to souls recently arisen in his diocese; Lud. Le Flèche, Bishop of Anthedonensis, due to the death of the Bishop of Trifluvianensis, to whom he must provide as Coadjutor; and His Eminence, Pinchón, Bishop of Polemoniensis, due to the most serious necessities and persecutions arising in the Vicariate entrusted to him (in Sinis)."

[*Latin ed. p. 13*]

VATICAN COUNCIL. 13 Laur. Shiel, Bishop of Adelaide, excused due to prolonged infirmity. Doney, Bishop of Montauban, excused due to increasing infirmity, with which he has suffered for some time. "The Judges declare the reasons alleged for absence to be sufficiently valid, etc." The Fathers manifest their assent by rising. The names of four Fathers who had requested permission to speak on the general schema were read. Those who spoke were: Petrus De Preux, Bishop of Sion, from the Deputation, to respond to certain observations; Ios. Caixal y Estrade, Bishop of Urgel; Ios. Salas, of the Most Holy Conception of Chile; Petrus Rota, Bishop of Guastalla. On May 25th, Thursday, the 59th general Congregation was held; the names of three Fathers who had requested permission to speak on the general schema were read. Those who spoke were: Eduardus Manning, Archbishop of Westminster, from the Deputation, to respond to certain difficulties; Io. Mae, Bishop of Galway; Guill. Clifford, Bishop of Clifton. On May 28th, Saturday, the 60th general Congregation was held; one Father requested permission to speak on the general schema. Those who spoke were: Ignatius De Seneslrey, Bishop of Ratisbon, from the Deputation, to respond to certain observations; (Petrus Geraud de Langalerie, Bishop of Bellic, and Arrnandus Maupoint, of Saint-Denis-de-La Réunion, who had already obtained permission to speak, renounced it, so that in this way, they might contribute to the desired brevity of the discussion); Aug. Verot, of Saint Augustine; Alexander Bonnaz, Bishop of Csanad and Temesvar; Io. Bravar, of Coutances; Ios. Papp; Szilàgyi, of Magna Varad, of the rite of the Ruthenians. The Fathers were reminded by the Most Reverend President: "The general Congregations, which have hitherto begun at the ninth hour

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of the morning, will henceforth begin at the eighth hour and a half." On May 30th, Tuesday, the 61st general Congregation was held; those who spoke were: Io. Spalding, Archbishop of Baltimore, from the Deputation, to respond to certain difficulties; Petrus Le Breton, Bishop of Le Puy; Eug. Lachat, Bishop of Basle; Iulius Lenti, of Nepi and Sutri; Laur. Gastaldi, of Saluzzo; Felix De las Cases, of Constantina and Hippo; Ephraem Garrelon, of Nemesius.

[*Latin ed. p. 14*]

14 FROM THE PROCEEDINGS: On May 31st, a Wednesday, the 62nd session was held, and the following report was read, presented by the Judges of Excuses: "The Most Reverend Joseph Peter Baltes, Bishop of Alton, in the United States of North America, who was promoted to the episcopate last September in a recently established diocese, presented a petition requesting that the obligation to attend the Vatican Council be excused, because he, as a new bishop in a recently established diocese, is hindered from this long journey by numerous and very important needs and affairs of that diocese. The Judges of Excuses, however, considered the reasons for his absence to be sufficient and adequately proven." The Fathers expressed their agreement by rising. Then, another report was read: "Several Fathers of this Council requested leave to depart from the Council for serious reasons, without the obligation to return, namely: The Most Reverend Modestus Demers, Bishop of Vancouver, in the United States of North America, who, while on his way to this Council, was afflicted by a serious illness and lay ill in a foreign land for several months, and is now again afflicted by illness; The Most Reverend Edmund Guierry, Bishop of Danaba, who has recently been appointed Apostolic Vicar in China, and who, having been deprived of his mission for almost two years, must provide for it all the more, especially now that persecutions of infidels against new Christians are arising; The Most Reverend John Kennessy, Bishop of Dubuque, in the United States of North America, due to the extreme shortage of priests in his vast diocese, to which the swiftest possible attention must be given, since, in the very month of June, there is a well-founded hope of finding all the necessary workers." The Judges of Excuses, having performed their office, having carefully examined and maturely considered the matter, acknowledged the reasons to be sufficiently founded and proven, etc." The Fathers expressed their agreement by rising. Then, the following spoke: Andrew Schaepman, Archbishop of Utrecht, from the Deputation, to address certain difficulties; Leopold Zelli, Abbot of Nullius of St. Paul in the City (who declined the permission to speak); Joseph Valerga, Patriarch of Jerusalem, of the Latin Rite; Anthony Claret y Clara, Archbishop of Traianopolis; Joseph Baptiste Purcell, Archbishop of Cincinnati; Thomas Connolly, Archbishop of Halifax. The death of Joseph Odin, Archbishop of New Orleans, was

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announced.

[*Latin ed. p. 15*]

VATICAN COUNCIL. On the 15th day of the month, a long-standing illness claimed a life in his homeland, on the feast of the Ascension of the Lord, and his soul was commended to the prayers of the Fathers. On June 2nd, a Feria V, the general congregation number 6, section 3, was held. The first President read the names of two Fathers who had requested permission to speak regarding the schema under consideration. They were: Reverend Father Vanesa, Archbishop of Fogia and Alba; Reverend Father Petrus de Dreux Brézé Moulinensis; Reverend Father Georgius Strossmayer, Bishop of Bosnia and Syrmia; Reverend Father Ludovicus Regnaidl, Bishop of Chartres; and Reverend Father Thomas Salzano, Bishop of Tanara. It was announced that the Reverend Thomas Grani, Bishop of Southwark in England, had passed away in this blessed city, in the English College, on May 31st (and it is said that he departed this life from illness contracted in his diocese, so that he might return his soul to God in Rome rather than in the heretical land). His soul was commended to the prayers of the Fathers. On June 3rd, a Feria VI, the general congregation number 6, section 4, was held; the following report regarding the excuses of the Fathers was read. "Several Fathers of the Council have requested leave to depart from the Council for serious reasons, namely: Reverend Ignatius Harcus, Patriarch of Antioch of the Syrians, due to a long-standing and very serious illness, now somewhat alleviated, so that he is now able to travel; Reverend Elias Casetme, Bishop and Syncellus of the Patriarch of the Syrians, who, being already advanced in age, cannot endure the summer heat; Reverend Father Matar, Archbishop of Alep of the Maronites, due to very serious controversies and international animosities that have arisen during his absence in his diocese, and matters of the gravest importance that he must personally address with the Ottoman government; Reverend Father Francis Kerrill, Bishop of Northampton in England, due to the increasing heat, which has always caused him great weakness and severe illness; Reverend Father Zwysen, Archbishop and Bishop of Bois-le-Duc in the Netherlands; Reverend Father Michael Deinlein, Archbishop of Bamberg in Bavaria; and Reverend Father lacobus Jeancard, Bishop of Ceramus; these three, due to the worsening of their infirmities, which are more dangerous in their advanced age and the unusual heat." The judges of excuses, etc. The Fathers, rising, manifested their assent. They were: Reverend Father Laurinus Gilooly, Bishop of Elphin; Reverend Father Panetus Dinkel, Bishop of Augsburg; Reverend Father Michael Domenec, Bishop of Pittsburgh; and Reverend Father Henricus Marat, Bishop of

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China.

[*Latin ed. p. 16*]

After these discourses had concluded, the Most Eminent President and then the Reverend Under-Secretary read the following notice:

NOTICE.

Reverend Fathers, "A written petition has been presented to us by more than one hundred and fifty Fathers of the Council, who, being of the opinion that the discussion concerning the draft of the first Constitution on the Church of Christ has been thoroughly exhausted in every respect, and that, therefore, further time would be wasted by useless repetitions, have urged that the General Congregation be consulted, according to number 11 of the Decree of February 20th, regarding the bringing to an end of said discussion. Consequently, moved by this, we considered it necessary to ask the Reverend Fathers whether they wished the general discussion of the proposed draft to be continued for a longer time, or not."

"Therefore, those Reverend Fathers who desire that an end be put to the general discussion of the proposed draft, let them rise."

As the Reverend Fathers rose, the Most Eminent De Angelis stated: "A far greater number have risen (1). For when the General Congregation is invited to rise as a sign of approving or disapproving a proposal, the individual Fathers who rise are not counted, if it is clearly evident that a far greater number of them have risen. In fact, in the matter under consideration, almost fifty Fathers remained seated, while the vast majority of the others rose. This is not surprising; for we know that many Fathers have been greatly inconvenienced by having to listen to discourses for several hours in each Congregation, for or against this definition, and similar matters, for or against infallibility. We also know that so many observations have been made, both in writing and orally, for one side or the other, that it must be considered that nothing that could be said had not already been said or written in some form, and that the discourses were merely repetitions of what had already been written and said. However, some have complained about this Decree, as if the freedom of discussion had been violated. These people did not realize that the freedom of the Synod had already been violated, and indeed very seriously, if they themselves could have spoken against the will of the Synod, which indicated the cessation of the discussion. Furthermore, it is not new, and we have examples of this in the very Council of Trent, that after sufficient discussion of a certain doctrine, the Fathers, after the discussion had been interrupted, would judge whether the matter under consideration had been sufficiently discussed, so that a vote could be taken. Thus, for example, Bartolomäus a Martyribus,

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Archbishop of Cento, reports in his memoirs."

[*Latin ed. p. 17*]

"VATICAN COUNCIL." 17 To Our Lord, by the Decree of February 20th, we impose an end to the general discussion of the proposed schema: "The remaining Fathers who had been granted permission to speak regarding the schema are: lac. Stepischnegg of Lavant; Thomas Nulty of Meath; Michael Fogarasy of Transylvania; loan. Huerta of Puno; Ant. Fania of Potenza and Marsico Nuovo; Theod. Gravez of Namur; Steph. Lipovnizki of Magno Varad, of the Latin rite; Car. Freppel of Angers; Franc. Pedicini, Archbishop of Bari; Cyrillus Behnam Benni, Archbishop of Mussul, of the Syriac rite; Lud. Haynald, Archbishop of Kollotschau and Bacsi; Franc. La Croix of Bayonne; Richardus Whelan of Weeling; Henr. Bindi of Pistoia and Prato; Petrus Kenrik, Archbishop of St. Louis; Fr. Xav. Apuzzo, Archbishop of Surrento; Alexander Franchi, Archbishop of Thessalonica; Ioan. Losanna of Bugella; Emman. Dei Valle of Huanuco; Ioannes Marangò of Tenes and Micon; Vincentius Iekelfalusy of Albae Regalis; Philip. Krementz of Varmi; Michael Heiss of Cross; Sigism. Covacs of Quinque Ecclesi; Georgius Errington, Archbishop of Trapezus; David. Moriarty of Kerry; Ant. Peitler of Vaci; Patritius Dorrian of Down and Connor; Stephanus Ramandié of EU; Ios. Aggarbati of Senigallia; Henric. Schmid, Abbot of the Monastery of St. Mary of Einsiedeln in Switzerland; Petrus Doimus Maupas, Archbishop of ladre; Ioan. Bapt. Berteaud of Tulle; lac. Bailles, formerly of Luçon; Georgius Butler of Limerick; Car. Colet of Lucan; Nie. Adames of Fialicarnassus; Steph. Pankovics of Munkacsi, of the Ruthenian rite; Fr an. Gros of Taranlasi; Petrus La Carriere, now of Guadalupe; Thomas Grimley of Antigonea; Hyac. M. Martínez of St. Christopher of Havana; Iulius De Ruggero, Abbot Ordinary of the Most Holy Trinity of Cava de' Tirreni; Lud. Delalle of Ruthen; Georgius Smiciklas of KriÅ¾evci, of the Ruthenian rite; Michael l?aya y Rico of Conchen; Ioan. Landnot, Archbishop of Rheims; Emus Card. Caesarius Mathieu, Archbishop of Bisun; Felix Dupanloup, Archbishop of Aurelian and Primate of Spain, who participated in the Council of Iri olentino: "The Sixth Session was held on September 17th, in which something was said about the most holy Sacrifice of the Mass." However, it displeased some Fathers that the second canon regarding the institution of the priesthood should be placed with those words: 'nee facite in mera commemoAda, tom. VI, fase. LXl.' This reason, which was the matter at hand, was considered probable, but not sufficiently discussed. Because only a very few, 50 or 32, held this opinion, and it seemed to others that the matter had been sufficiently discussed and examined, therefore it was decided." Summary

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of the Council by F. Barth. a Martyr, edition Marietti, 1869, p. 597.

[*Latin ed. p. 18*]

It was read from the Acts that the Most Eminent Cardinal De Angelis imparted this further instruction: "Reverend Fathers, you know that the Most Holy Lord has ordered that, in order to implore the most abundant grace of the Holy Spirit and heavenly mercy for the entire world during this Pentecost season, a solemn exposition of the Most Holy Sacrament with prayers be held in the basilicas and churches of the city. The same Most Holy Lord wished to make it known to you, Reverend Fathers, that He Himself, accompanied by the Sacred College of Cardinals, will descend to the Basilica of Vatican on the second day after Pentecost, at half-past six in the afternoon, in order to participate in solemn prayers and the Benediction of the Most Holy Sacrament. Reverend Fathers of the Council, those who wish to attend this solemnity and join their prayers with those of the Most Holy Lord, should arrive at the Basilica of Vatican at the aforementioned time, and will occupy places in the papal chapels customarily assigned to them, wearing the attire of Prelates, that is, with the *rocchetto* and *mantelletta*." Finally, the same Most Eminent Cardinal read this further instruction: "The next general session will be held on the second day of the following week, at half-past eight in the morning, during which a special discussion will be held on the introduction to the draft of the first Constitution on the Church; and then the special discussion of the first chapter will proceed. Reverend Fathers, those who wish to speak about the introduction or about the individual chapters may, in the meantime, give their names, provided that they clearly express in their request about which part of the draft they wish to speak in the special discussion, and those who will speak about the other part of the aforementioned draft should have prepared amendments, which, according to number 7 of the Decree of February 20th, must be presented in writing to the Presidents after their speech. Furthermore, we remind the Reverend Fathers that all those who speak, in accordance with the rules prescribed for the discussion in the aforementioned Decree number 10, should diligently restrain themselves within the limits of the subject matter proposed, both in the introduction and in the individual chapters." On June 6th, on the eleventh day, the general session number 65 was held, and the names of five Fathers who had requested permission to speak about the introduction were read, and immediately the following was stated: "Furthermore, the Reverend Fathers are reminded that all those who speak, in accordance with the rules prescribed for the discussion in the Decree of February 20th..."

[*Latin ed. p. 19*]

OF THE VATICAN COUNCIL. 19, no. 10, "that they diligently restrain themselves within the bounds of the proposed argument, both in the intro-

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duction and in each individual chapter." Then, the Most Reverend President Antoninus De Luca added: "Since the Most Reverend and Right Reverend Monsignor Caesarius Mathieu, Archbishop of Besançon (who was first among those whose names had been read today), has reserved the right to speak when the discussion reaches the special consideration of the fourth chapter, let the Right Reverend Monsignor Thaddaeus Amat, of Monterrey, now ascend the ambo." After him spoke: Augustine Verot, of Augustine; Valentinus Wiery, of Gurk; Benedict Thomas, of La Rochelle (-Saintes). To these, successively, were added: Hyacinthe M. Martínez, of Christopher of Havana; Richard Whelan, of Weeling; Salvator Magnasco, of Bolina. It was declared by the Most Reverend President that the discussion of the introduction was closed, since no one else had requested permission to speak. It was also announced that the proposed amendments would be printed as soon as possible, so that votes could be taken on them; meanwhile, in the next general congregation to be held the following day, a discussion would be held on the first chapter, for which one had requested permission to speak, and on the second chapter, for which two Right Reverend Fathers had requested permission to speak, and then the discussion of the third chapter would begin. On June 7th, Wednesday, the 66th general congregation was held, and those who spoke about the first chapter were: the Most Reverend Cardinal Friedrich Schwarzenberg, Archbishop of Prague; Alexander Moreno, of Ipporegi; Victor Dechamps, Archbishop of Mechlin, to respond to the difficulties proposed by the two previous speakers; Peter M. Ferré, of Casale Monferrato; and Salvator Magnasco, of Bolina. It was declared by the Most Reverend Cardinal De Luca that the discussion of the first chapter was closed. And then, those who spoke about the second chapter were: Benavente Monzón y Martins, Archbishop of Granada; Alexander Filippi, of Aquila; Theodorus Amat, of Monterrey and Angelorum. It was declared that the discussion of the second chapter was closed, and the discussion of the third chapter was scheduled for the following Friday. On June 9th, Friday, the 67th general congregation was held; those who spoke about the third chapter were: the Most Reverend Cardinal Joseph Olhm, Archbishop of Vienna; Victor Augustine Dechamps, Archbishop of Mechlin; Julian Despfez, Archbishop of Toulouse; and Cyril Behnam Benni, Archbishop of Mussuliensis of the Syrians.

[*Latin ed. p. 20*]

20 From the ACTS: The proposed amendments concerning the preface of the draft of the first dogmatic Constitution on the Church were discussed. The speeches of the Fathers followed, and they spoke: John Francis Landriot, Archbishop of Rheims; (Felix Dupanloup, Archbishop of Orleans, who had requested permission to speak, was not present) – Thaddeus Amat, Bishop of Monterrey and Angelorum. On June 10th, a Feria VI (weekday), the general Congregation no. 68 was held,

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and six other Fathers gave their names to speak. They spoke: Felix Dupanloup, Archbishop of Orleans; Joseph Hippolyte Salas, of the Most Holy Conception of Chile; (Nicholas Pace, an American, abstained); Peter Sola, Bishop of Nice; Augustine Verot, of Saint Augustine. The proposed amendments concerning the first and second chapters were then discussed. Subsequently, the following spoke: Augustine David, Bishop of Briocensis; Pantaleon Monserrat y Navarro, Bishop of Barcinonensis. On June 1st, a Saturday, the general Congregation no. 69 was held; a report, which follows, was read by the Judges of Excuses: "Certain Fathers of the Council, for very serious reasons, have requested permission to leave the Council, namely, the Most Reverend John Marcellus Touvier, Bishop of Olenensis, and Francis Raynaud, Bishop of Aegensis; both because of the extraordinary dangers recently greatly increased to the souls entrusted to their care." The Judges of Excuses, etc. The Fathers, rising, manifested their assent. Another Father gave his name to speak, and he spoke: Joseph Papp-Szilagyi, of the Great Varadiensis rite; Charles Place, of Massiliensis; Laurence Gastaldi, of Salutiarum; John Baptist Callot, of Oranensis; Amatus Guilbert, of Vapincensis; Sal. Magnasco, of Bolina; Leopold Zelli, Abbot of Saint Paul of the City. On June 13th, a Feria H (weekday), the general Congregation no. 70 was held, and a report was made by name concerning the amendments proposed regarding the preface, and the opinion of the Deputation concerning those amendments was presented. This report and exposition were made by the Most Reverend Patrick Leahy, Archbishop of Casseliensis. Then, the Most Reverend Cardinal De Angelis, after announcing that it was necessary to proceed to the voting, read the following notice: "The Most Reverend Fathers are reminded that, in order that this matter may be carried out more effectively and safely, each one, as long as the act of voting lasts, should..."

[*Latin ed. p. 21*]

VATICAN COUNCIL. 21. "When the time assigned to them has arrived, they shall occupy their seats in the hall of the Council, and, in order that those who wish to express their assent or dissent may do so by rising, they shall remain standing until it is sufficiently clear whether the majority or minority is greater." The Fathers had already been sent to their proper residences a printed document containing the amendment proposed by the Deputation, drawn from the two first amendments presented in the general Congregation: votes were taken, and these were often by all or almost all the Fathers, always by a greatly larger majority, in accordance with the opinion expressed by the Deputation. The names of five Fathers who had requested permission to speak on the third chapter were read. They spoke: (Raphael Ricca, General of the Minim Fathers, abstained) - His Eminence, Cardinal John Baptist Pitra - Louis Regnat, Bishop of Chartres - Charles Colet, Bishop of Luçon - (Henry Maret of Soissons abstained) - Fer-

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dinand Ramírez y Vasquez, Bishop of Badajoz - (Louis Foulon, Bishop of Nancy-Toul, abstained) - (Louis Haynald, Archbishop of Kollotschau, abstained) - (Gregory Iussef, Patriarch of Antioch, Melchite, was not present) - Peter Dreux Bréxé, Bishop of Moulin - (John Peter Bravard, Bishop of Coutances) - (Salvator Augustus De Martis, Bishop of Galtelli and of the forum) - (Philip Krementz, Bishop of Lidzbark Warmięski). Since, besides the others, these last speakers were either not present or were not prepared, His Eminence granted permission to speak to Louis Caixal y Estrade, Bishop of Urgel. On June 14th, Wednesday of the third week, the general Congregation 71 was held, and two other speakers joined. They spoke: Louis Haynald, Archbishop of Kollotschau and Bacsi - Gregory Iussef, Patriarch of Antioch, Melchite - John Peter Bravard, Bishop of Coutances - Salvator Augustus De Martis, Bishop of Galtelli and of Soissons - Philip Krementz, Bishop of Lidzbark Warmięski. These all should have spoken the day before. Then other Fathers spoke: John Vanesa, Archbishop of Fogaras and of Alba Iulia, of the Greek rite - Charles Freppel, Bishop of Angers. The President declared the discussion on the third chapter closed, and indicated what should be done in the next general Congregation, and finally, the following notice was read: "Since in yesterday's Congregation, several of the Fathers who had obtained permission to speak were not present when their turn came to speak, which is, in itself, somewhat improper..."

[*Latin ed. p. 22*]

22 From the Acts, it is seen that order is disturbed; therefore, the Reverend Fathers are warned that if anyone, having obtained permission to speak, is not present when called in his turn, he will be considered to have renounced the permission granted to him. On June 15th, Thursday, the 72nd general congregation was held. The Reverend Father Bartholomew D'Avanzo, Bishop of Calven and Teano, on behalf of the Deputation, presented the proposed amendments regarding the first and second chapters, explaining the opinion of the Deputation on these matters. Afterwards, the Fathers were reminded of the previously issued instruction regarding occupying each person's assigned place and remaining standing until the number of votes was ascertained; and then the voting proceeded; and these votes were almost always given by all the Fathers in accordance with the opinion of the Deputation. The names of the Fathers who had requested permission to speak on the fourth chapter were read. There were seventy-five of them, and since one had been overlooked, the Reverend Secretary, after the names had been read by the Under-Secretary, gave him this warning to be read. "The Archbishop of Ladis declared, during the reading of the names, that he had given his name in due time; which is true. Since his name was overlooked due to an error, it will be inserted in its proper order." The following spoke on the fourth chapter: His Eminence Cardinal Caesar Mathieu, Archbishop of Besançon; His Eminence Cardinal Joseph

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Rauscher, Archbishop of Vienna. On June 18th, Saturday, the 73rd general congregation was held, and the names of twenty-three Fathers who had still requested permission to speak on the fourth chapter were read. The following spoke: His Eminence Cardinal Joseph Pitra, through Peter Geraud de Langalerie, Bishop of Bellic, who read his discourse; His Eminence Cardinal Philip Guidi, Archbishop of Bologna; His Eminence Cardinal Henry de Bonnechose, Archbishop of Rouen; His Eminence Cardinal Paul Cullen, Archbishop of Dublin. On June 20th, Tuesday, the 74th general congregation was held, and the names of seven Fathers who had still requested permission to speak on the fourth chapter were read. The following spoke: Father Bartholomew D'Avanzo, Bishop of Calven and Teano, from the Deputation, to respond to certain observations, and especially...

[*Latin ed. p. 23*]

VATICAN COUNCIL. 23: In order to explain the concept of papal infallibility, the following were present: Paulus Ballerini, Patriarch of Alexandria, of the Latin rite; los. Valerga, Patriarch of Jerusalem, of the Latin rite; Ioannes Mac Hale, Archbishop of Tuam; los. Alemany, Archbishop of St. Francis. The following was read: "It has seemed necessary, Most Reverend Fathers, to those who requested permission to speak in the special discussion of the fourth chapter, to caution them not to return to the general discussion by speaking again about the opportuneness or necessity of this definition, or about matters pertaining to the preceding chapters of this schema. Furthermore, they should diligently strive to adhere closely to the argument of this fourth chapter, taking care not to wander in any way outside of the matter, and to strive for brevity, which is so desired by all." On June 22nd, Thursday, the general congregation 75 was held. The names of two Fathers who had requested permission to speak on the fourth chapter were read, and the following caution was read: "The caution already read at the end of the last general congregation is repeated, since several Fathers had already departed from that session. (The caution just mentioned was read)." "We also reiterate the caution previously given, that the Most Reverend Fathers abstain from any signs of approval or disapproval of the statements made by individual speakers." The following Fathers spoke: Frane. Apuzzo, Archbishop of Surrentum; Vino. Spaccapietra, Archbishop of Smymensis; Georgius Errington, Archbishop of Trapezus; Salv. Nobili Vitelleschi, Archbishop of Ep. Auximanus and Cingidanus; Th. Connoly, Archbishop of Alifaxia; Car. De la Tour d'Auvergne, Archbishop of Biturica; Benventus 'Monzón y Martins, Archbishop of Granada. On June 23rd, Friday, the general congregation 76 was held, and a new speaker was announced. The following Fathers spoke: Petrus Domnius Maupas, Archbishop of Ladrensis; loa. Franc. Landnot, Archbishop of Rheims; Anast. Rodrigo Yusto, Archbishop of Burgensis; loa. Lynch, Archbishop of Toronto;

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Ioannes Losanna, Bishop of Bugella.

[*Latin ed. p. 24*]

24 FROM THE ACTS. On June 25th, Saturday, the General Congregation No. 77 was held. Two new electors attended, whose names were read by the Most Eminent Cardinal De Luca. The following spoke: (Father Lacroix of Bayeux abstained) - Richard Whelan of Weeling - (William Ullathorne of Birmingham abstained) - Bartholomew Legat of Trieste - Felix Cantimorri of Parma - William Keane of Gloyn - William de Ketteler of Magut - Peter La Carrière, formerly of Guadalupe. On June 28th, Wednesday, the third day of the week, General Congregation No. 78 was held, and the following spoke: (Bartholomew D'Avanzo of Calven and Teano abstained) - Jesusdal Vitali of Ferentino - Jacques Ginoulhiac, Archbishop of Lyons (promoted in the previous Consistory from the Bishopric of Gratianopol) - Joseph Caixal y Estrade of Urgel. The Most Eminent Cardinal De Angelis read, and then the Secretary announced the following: "Copies of the preface, as well as of the first and second chapters of the Dogmatic Constitution on the Church of Christ, adapted by the Congregation for Affairs of Faith, according to the amendments approved by this General Congregation, are now being distributed to the Fathers. Furthermore, votes will be taken from the Fathers in the General Congregation this Saturday concerning the text of the preface, and then concerning the text of the first chapter, and finally concerning the text of the second chapter." After the distribution, the Fathers were reminded by the Most Eminent President that there would be no Mass in the Papal Chapel at St. Paul's on the following Friday. And the discussions continued. The following spoke: Thaddeus Amat of Monterrey and Angelorum - David Moriarly of Kerry and Aghadoni. On June 30th, Friday, the third day of the week, General Congregation No. 79 was held, and the following report was read, presented by the Judges of Excuses: "Certain Fathers of the Council have requested leave to absent themselves from the Council for serious reasons, namely: Tobias Aun, Archbishop of Beirut, of the Maronite rite, due to a habitual infirmity aggravated by old age - Basil Nasser, Bishop of Heliopolis, of the Melkite rite, due to a serious infirmity contracted long ago - Peter Wilmer, Bishop of Hariem, due to a continuous infirmity - Joseph Purcell, Archbishop of Cincinnati, due to the numerous needs of his diocese."

[*Latin ed. p. 25*]

VATICAN COUNCIL. 25 verses were greatly increased, and a grave illness, with which Rome was continuously afflicted – Raphael Popow, Bishop of the Bulgarians, due to a grave danger to souls arising from the constant efforts of schismatics – Loa. Conroy, Bishop of Albano Laziale, in the United States of America, due to the most pressing necessities which urgently require his presence in the diocese. "Judges of Excuses, etc." The

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Fathers manifested their assent by rising. Those who spoke were: Renatus Sergent, Bishop of Quimper-Léon; Dom. Zelo Aver, in good health; (Petrus Rota, Bishop of Guastalla, declined); Conr. Martin, Bishop of Paderborn. The proposed amendments were distributed to the third chapter. Then those who spoke were: Petrus M. Ferre, Bishop of Gasalensis; Armandus Maupoint, of Saint-Denis-de-La Réunion; (Bernandus Conde y Corral, Bishop of Zamora, declined); Aug. Verot, of Saint Augustine. It was announced to the Fathers that John Derry, Bishop of Clonfert in Ireland, had died in his diocese, who had long since obtained permission to leave the Council. On July 1st, Saturday, a general congregation was held, with 80 members present, and the following spoke: Michael Paya y Rico, Bishop of Cuenca; (Joach. Lluch, Bishop of Salamanca, declined); Car. Colet, Bishop of Luçon; Henricus Mar et Surensis, Bishop of Augustini; Aug. David, Bishop of Briocensis; Nie. Adames, Bishop of Luxembourg (transferred in the Consistory on June 27th, formerly Bishop of Halicarnassus, Apostolic Vicar of Luxembourg); (Jos. Papp Szilagyi, Bishop of Magno Varadiensis, of the Ruthenian rite, declined); Gar. Loa. Greith, Bishop of Saint Gall. It was announced to the Fathers what would be done in the next general congregation. It was stated that the beginning of the general congregations would be the following day and thereafter at the eighth hour. On July 2nd, Sunday, a general congregation was held, with 81 members present: votes were requested and given on the entire revised text, first the preamble, which was approved by almost all the Fathers; then the first chapter, which was approved by all, with only a few (six or seven) dissenting. Those who spoke were: Thomas Nulty, Bishop of Meath; (Loa. Jos. Faiet, Bishop of Bruges, declined); Gaspar Mermillod, Bishop of Hebronensis; (Mich. Fogarasy, Bishop of Transylvania, declined); Guill. Meignan, Bishop of Châlons; Steph. Ramadié, Bishop of Perpignan-Elne; Hyac. M. Martínez, Bishop of Saint Christopher of Havana; Fi\ Moreyra Ayacuguensis; Jos. Aggarbati, Bishop of Senigallia; (Fr. Zun2»

[*Latin ed. p. 26*]

28 FROM THE ACTS: The Reverend Fathers from Uxelles and Terralba – Very Reverend Master Fania, from Potentia and Marsico Nuovo – Reverend Laur. Gastaldi, from Saluzzo – (Very Reverend Eug. Galletti, from Alba Pompeia – Very Reverend Ant. Colli, from Alexandria, reported) – (Very Reverend Fel. De las Cases, from Constantina, was ill) – (Very Reverend Corn. Mac Cabe, from Ardagh – Reverend Raph. Corradi, from Balneoregium, reported) (Very Reverend Phil. Krementz, from Varmia, was absent) – (Very Reverend Ephraem Garrelon, from Nemes – Very Reverend Car. Hefele, from Rottemburg, reported) – Very Reverend Car. Frappel, from Angers – (Very Reverend Iul. de Ruggero, from the Order of the Most Holy Trinity, from Cava de' Tirreni – Very Reverend Vinc. Landel, Master General of the Order of Preachers, reported). The Reverend Fathers

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were reminded by His Eminence Cardinal De Luca that, on the following Thursday, after the report, the votes would be taken regarding the amendments to the third chapter and the canon proposed by the Reverend Fathers. On July 4th, on Thursday, the general congregation, number 82, was held, and the following report, presented by the Judges of Excuses, was read: "Certain Fathers of the Council have requested leave to absent themselves from the Council for serious reasons, namely: Ignatius Persico, Bishop of Savannah, due to his poor health and the most pressing needs of his diocese." The Judges of Excuses, etc." The Fathers, rising, manifested their assent. His Eminence the President, De Luca, announced that the Reverend Fathers who had been granted leave to speak were: His Eminence Cardinal Frid. Schwarzenberg, Archbishop of Prague – Reverend lo. Simor, Archbishop of Strigonium, Primate of Hungary – Reverend Fr. Blanchet, Archbishop of Oregon City – Reverend Marianus Ricciardi, Archbishop of Reggio – Reverend Al. Franchi, Archbishop of Thessalonica – Reverend Ioachim Limberti, Archbishop of Florence – Reverend Fr. Pedicini, Archbishop of Bari. Then, George Darboy, Archbishop of Paris, was called to the ambo, but he was absent. Then, His Eminence announced that Reverend loannem Ghilardi, from Montis Regalis, had been granted leave to speak. Afterwards, Fran. Gandolfi, from Corneto and Centumcellae, was called to the ambo and spoke. Later, His Eminence announced that the Reverend Fathers who had been granted leave to speak were: Felix Dupanloup, from Aurelianensis – Reverend lo. Ranolder, from Vesprém – Reverend Petrus Dreux, from Bréxé Moulinensis – Reverend Franc. Roullet de la Boullerie, from Carcassonne – Reverend lo. Formisano, from Nola. Guill. Clifford, from Clifton, was called to the ambo, but he reported that he was unable to attend.

[*Latin ed. p. 27*]

AT THE VATICAN COUNCIL. On the 27th, it was announced that the following Fathers had also declined: Peter Sola of Nice; Louis Delalle of Rodez et Vabres; Michael Milella of Apulia; Anthony Peitler of Waitzen; Patricius Dorian of Down and Connor; John Baptist Ormaechea of Tulancigo; Nicholas Dabert of PÃ©rigueux et Sarlat. Charles Place of Marseilles was called to the ambo, but he declined. Anselm Fauli of Grosseto had also declined; Henry Bindi of Pistoia and Prato was called to the ambo, but he declined. Leo Meurin of Ascalon had also declined. John Francis Callot of Oran spoke from the ambo. It was noted that the following had also declined: Salvator Magnasco of Bolina; Albert Passeri, Abbot General of the Regular Canons of the Lateran; German Gai, Abbot General of the Congregation of Vallombrosa; Augustine Savini, General of the Order of Carmelites of the Strict Observance; Louis Haynald, Archbishop of Colocensis and Bacsiensis; Francis Victor Rivet of Dijon; John Peter Bravard of Coutances; Vincent lekelfalusy of StuhlweiÃ□enburg; Francis Gros of

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Tarentaise; Amatus Guilbert of Gap; Theobald Cesari, Abbot General of the Order of Cistercians; John Mae of Galway; Thomas Grimley of Antigonea; Joseph Bovieri of Faliscodunensis. Al Moreno Ipporegiensis was called to the ambo, but he declined. Also, Joseph George Strossmayer, Bishop of Bosnia and Syrmia, was called to the ambo, but he declined. Since no one else requested permission to speak, the Most Reverend President, Anthony De Luca, declared the special discussion of the fourth chapter closed; and thus, the General Congregation was concluded shortly after nine o'clock in the morning. On July 5th, Feria III, the 83rd General Congregation was held; and, on behalf of the Deputation, a report on the proposed amendments to the third chapter was presented by the Reverend Father Frederick M. Zinelli, Bishop of Tarvisio, for nearly two hours. Then, votes were taken on each of the amendments, and these were often approved by all or almost all, and often by a much larger number of Fathers, in accordance with the amendments that the Deputation accepted, and in accordance with the opinion that it held. But when an amendment, regarding chapter III, was admitted according to the manner proposed by the Deputation, which had proposed a form of the chapter that was slightly modified by itself, the Archbishop of Colocensis and Bacsiensis, and then the Archbishop of Paris, in a more emphatic voice from their places, noted: this...

[*Latin ed. p. 28*]

28 From the *Acta*, it was stated that a new form of canon was not sufficiently known, nor had it been subjected to discussion. Then, at the order of the Most Reverend President, it was announced by the Under-Secretary to the Fathers: that the vote on this amendment would be postponed, and that a newly printed canon would be sent to each Father. Then, votes were taken on the two immediately preceding amendments, which would have been excluded if this last amendment, of which we have spoken, had been accepted. It was announced by the Most Reverend Cardinal De Angelis that the date for the next general Congregation would be communicated to each Father: which was subsequently done through the following NOTICE: "The next general Congregation will be held on Tuesday, the 11th of the current month, at the hour of *octava*. In it, first, a brief report will be given on amendment 72 of the third chapter, after which the votes of the Fathers will be taken. Then, a report will be given on the amendments of the fourth chapter of the draft of the first Constitution on the Church, which have already been distributed, and the votes of the Fathers will be taken on those same amendments." From the Secretariat of the Vatican Council, July 8, 1870. "JOSEPH, Bishop of St. Hippolytus, Secretary of the Council. On July 11th, Tuesday, the 84th general Congregation was held; and the Most Reverend President read the notice in these words: "There remains from the last Congregation the amendment 72 proposed for the third chapter, concerning which, as also concerning Canon III pertaining

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to the third chapter, according to the intention of the amendments proposed in the general Congregations, having been printed and distributed to the Fathers (at home on Thursday), first, the relator, namely the Most Reverend Monsignor Frederick M. Zinelli, Bishop of Tarvisium, must be heard, and then the votes of the Fathers will be taken." After the report was given, and after the Most Reverend President reminded the Fathers of their customary obligation to occupy the place assigned to each in the hall and to remain standing until it was sufficiently clear about the number of votes, votes were taken on the seventy-second amendment, which was admitted.

[*Latin ed. p. 29*]

OF THE COUNCIL OF THE VATICAN. 29. A deputation presented its report, and this was also approved by the general congregation, with only a few dissenting. Afterwards, the Most Reverend Vincent Gasser, Bishop of Brixen, gave a general report on the fourth chapter for two hours and more; and also a special report on the first twenty amendments for almost an hour. (The amendments concerning the fourth chapter, which had been printed, had been sent to the houses on Thursday, and on Saturday, several amendments proposed by the deputation had also been sent to the houses.) Then, recalling the often-repeated warning, votes were taken on these first twenty amendments, and these were approved according to the opinion expressed by the deputation, with only a few dissenting on several occasions. The Reverend Relator, Bishop of Brixen, gave a report on the other amendments for an hour and more. Finally, votes were taken on these other amendments according to the opinion conveyed by the deputation, with a few dissenting on the admission or addition of some of them. A formula of definition was proposed. The warning was read by the Eminent President, and afterwards by the Under-Secretary, concerning the votes to be taken on the following Thursday regarding the text of the third chapter, to be distributed the day after, and then the fourth chapter, and finally, the canons: after which votes would be taken on the entire reformed schema, by the words "placet," "non placet," or "according to the manner." On July 13th, Thursday, the general congregation numbered 85, and the following report was read, presented by the Judges of Appeals: "Several Fathers of the Council requested leave to absent themselves from the Council for serious reasons, namely: Lawrence Gibbons, Bishop of Adramystis, Apostolic Vicar in North Carolina, due to the most serious needs of his vicariate and the great scarcity of priests; Wenceslaus Achaval, Bishop of St. John of Cuyo in the Republic of Strasbourg, also due to the most serious needs of his diocese and a more serious infirmity; Edward Fitzgerald, Bishop of Petricula, due to the most serious needs of his diocese, especially due to the scarcity of priests; Michael Domenec, Bishop of Pittsburgh in the United States of America; John Farrel, Bishop of Hamilton in Canada; Claudius

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Dubuis, Bishop of Galveston in Texas; Alexander Dos Santos, Bishop of Fortaleza in Brazil, due to various and most serious needs of their dioceses, all of which have been recently established; Stephen Fennelly, Bishop of Thermopylae, Apostolic Vicar in Madras, due to the most serious needs."

[*Latin ed. p. 30*]

30. From the records of their vicariates, which entirely necessitate their presence – the Most Reverend Patrick Moran, Bishop of Dunedin in New Zealand, as well as the Most Reverend Ferdinand Dupont, Bishop of Azotus, Apostolic Vicar in Siam, due to the grave needs of their recently established dioceses, and the serious tribulations to which the faithful entrusted to their care are subjected by the government – the Most Reverend Thomas Power, Bishop of St. John in the Island of Newfoundland; the Most Reverend Henry Carfagnini, Bishop of Portus Gratiae in the same island, both due to the most pressing needs of their dioceses, which were recently established; the Most Reverend Christopher Boniean, Bishop of Medes, Apostolic Vicar of Jafna in India, due to the various needs of his vicariate; the Most Reverend Th. Grimley, Bishop of Antigonensis, Apostolic Vicar of the Cape of Good Hope, likewise due to the grave needs of his vicariate; the Most Reverend Peter Dufal, Bishop of Delconensis, Apostolic Vicar of Eastern Bengal, both due to the grave needs of his vicariate, and also because of the illness from which he suffers; the Most Reverend Car. Poirier, Bishop of Rosensis in the island of Dominica, because the diocese entrusted to him greatly needs a pastor, having been established only recently; and for the same reason, the Most Reverend Eug. Guigues, Bishop of Owtawiensis in Canada; and the Most Reverend Theod. Koiungi, Bishop of Sydoniensis of the Melchite rite, due to the various needs of his diocese. "Judges of Excuses, etc." rise and give their assent. The Most Eminent President read the following NOTICE: "In this general congregation, first, the votes of the Fathers will be taken on the entire text of the third chapter of the proposed schema, which, having been adapted according to the amendments admitted by the general congregation, has been distributed to the Fathers, along with the canon attached to it; afterwards, the votes will be taken on the entire text of the fourth chapter, also adapted and distributed, along with the canon attached to it. Since, however, the votes of the Fathers have not yet been given on canons I and II, which pertain to the first and second chapters of our schema, it is necessary to first proceed with the taking of votes on these two canons, which have undergone no changes and are read as they are printed on the sheet which contains the third and fourth chapters."

[*Latin ed. p. 31*]

VATICAN COUNCIL. 81 (The document had been sent to the house with another sheet containing the complete, revised Constitution). "Therefore, let those Reverend Fathers who assent to these two canons rise." Al-

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most all rose. "Now, let those who dissent rise." No one rose. After a prior declaration by the Eminent President that these two canons had been approved by the General Congregation, the complete text of the third chapter, most recently adapted, and the canon attached to it, were proposed for a vote. It was approved by the General Congregation, with approximately fifty Fathers dissenting. Then, the text of the fourth chapter, most recently adapted, along with the canon attached to it, was put to a vote. It was approved by the General Congregation, with fifty or slightly more Fathers dissenting. The Eminent President read the following: "After the votes of the Fathers have been taken, both by standing and by the discussion of the text regarding amendments, it remains to ask for the opinions of the Fathers, according to number 14 of the Decree of February 20th, concerning the entire schema. These votes will be announced orally, using the words 'placet' or 'non placet,' or, as has been done previously, using the words 'placet' along with the manner, or condition, that each individual may desire, which will be submitted in writing at the same time." Therefore, now, the Reverend Under-Secretary will read the names from the platform to inquire about the votes of each Father, and will ask each one by name, and each one will express their vote with a clear and understandable voice. After the votes have been taken and the count made, the following report was read: "Reverend Fathers, we inform you that, according to the count of the votes, 601 Fathers cast their votes. Of these, 451 cast their votes..."

[*Latin ed. p. 32*]

32 From the Acts: "Some [fathers] are pleased with the matter, others are not pleased with the words, and 62 are pleased with the words, according to the manner." Then, this other notice was read: "The votes which were given according to the manner, in writing, shall be printed and distributed to the Fathers, so that in the next general Congregation, due consideration may be given to them." The date for the next Congregation will be signified to the Fathers in Rome." Finally, it was announced that two of the Fathers of the Council had passed away: the Most Reverend George Sthal, Bishop of Herbipolensem, and the Most Reverend Dominic of Saint Joseph, General Prefect of the Order of Discalced Carmelites; and their souls were commended to the prayers of the Fathers in Rome; and the Congregation was closed. The date of the subsequent Congregation was signified by a notice sent to the houses, with these words: NOTICE. "The next general Congregation will be held on Saturday, the 16th of this month, at the hour of octava. In it, a brief report will be made on the exceptions, which were added in writing by some Fathers to the entire schema of the first Constitution on the Church of Christ, in the last Congregation, and which, having been printed, are sent to the Most Reverend Fathers along with this document." From the Secretariat of the Vatican Council, July 14, 1870. JOSEPH E P. S. HIPPOLYTE, Secretary of the Council. On July 16th, Saturday, on the feast

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of the Blessed Virgin Mary of Mount Carmel, the 86th general Congregation was held; a report was presented in writing by those Most Reverend Fathers who had given their votes according to the manner, which had been printed and sent to each Father's house. The Most Reverend Bartholomew D'Avanzo, Bishop of Calvensis and Theanensi, presented a report on the exceptions to the preamble and to the first and second chapters. The Most Reverend Vincent Gasser, Bishop of Brixinensi, presented a report on the exceptions to the fourth chapter, or rather, on the four propositions, that is, on the text of Saint Augustine; concerning the word "defined"; concerning "de-".

[*Latin ed. p. 33*]

OF THE COUNCIL OF THE VATICAN. 33. Amendments concerning the extension of infallibility, and the explicitly excluding in the end of the definition of the necessity of assent by the Bishops. The Eminent President then said: "Reverend Fathers, in accordance with this exposition, made in the name of the Deputation for matters of faith, votes will be taken from the Fathers on two articles, and this will be done by the usual method of rising. The Reverend Under-Secretary will read the articles on which votes are to be taken." The Reverend Under-Secretary, after rejecting the first of the articles presented by the Eminent President, said: "Therefore, the Reverend Fathers are requested to take their places." The amendment, which comes under number 76, is proposed for the vote of the Fathers, and it reads as follows: "It is desired that the second paragraph of the fourth chapter be concluded with the evangelical words: 'I have prayed for you,' etc., omitting what follows: 'Nor are we unaware that to the Roman Church, etc.'" The Deputation for the Faith approves of this amendment." A much larger number rose in favor of this amendment being accepted; very few rose against it, that is, ten or twelve. It was declared by the Eminent President that this amendment had been accepted. The Reverend Under-Secretary continued: "The amendment, which is under number 152, is proposed (it is read). This amendment is accepted by the Deputation for the Faith, according to the established procedure. The established procedure is that these final words should be read as follows: 'Therefore, such definitions of the Roman Pontiff are irreformable, not by themselves, but by the consent of the Church.'" A much larger number rose in favor of this amendment being accepted; a much smaller number rose against it, that is, about thirty. It was declared by the Eminent President that this amendment had been accepted by the General Congregation. Then the same President added: "The amendments that have been accepted will be inserted in their places in the schema, which will be carefully revised and sent to each of the Reverend Fathers, before the public session, to their own residences." Then the session concluded.

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Acts, volume VI, page 61.

[*Latin ed. p. 34*]

"The sheets of a certain public protest, which we are preparing to issue for the defense of the honor of this most holy Council, are now being distributed." During the distribution, the Under-Secretary, in a loud voice, warned the Reverend Fathers: "Let the Reverend Fathers know that this Congregation is not absolute." After the distribution, he said from the pulpit: "In the name of the Most Reverend Presidents, the present Protestation is read." He immediately read it, which was of the following tenor:

"Most Reverend Fathers, from the moment that the Most Holy Synod of the Vatican, with the help of God, was convened, a most bitter war immediately broke out against it; and in order to diminish the venerated authority of this Synod among the faithful people, and, if possible, to undermine it completely, several writers have competed to detract from it, to slander it, and to assail it with the foulest calumnies, not only among the heterodox and open enemies of Christ, but also among those who call themselves sons of the Catholic Church, and, which is most deplorable, even among the very sacred ministers themselves."

"All know that these proven falsehoods have been collected on this subject in the public newspapers of each language, and in pamphlets, widely published and furtively distributed, without the names of the authors. But among these anonymous pamphlets, two in particular, written in French under the titles: 'Ce qui se passe au Concile' and 'La dernière heure du Concile,' seem to have surpassed all the others in their art of calumny and license to slander. In these, not only is the dignity and full freedom of this Council shamefully attacked with falsehoods, and the rights of the Apostolic See overturned; but also the august person of Our Most Holy Lord is grievously injured with insults. Indeed, mindful of our office, we are compelled to raise our voice against so many and such detractions, lest our silence, if prolonged, might be interpreted in a bad light by evil men; and in the presence of you all, Reverend Fathers, we protest and declare: that all these things are utterly false and calumnious..."

[*Latin ed. p. 35*]

OF THE COUNCIL OF THE VATICAN. 35. All those things which are published in the aforementioned ephemerides and books, whether they are done in contempt and derision of Our Most Holy Lord and the Apostolic See, or in dishonor of this Holy Synod, and against the asserted defect in that legitimate liberty." Given from the Hall of the Council of the Vatican, on the 16th of July, 1870. PHILIPPUS Cardinal DE ANGELIS, President. ANTONINUS Cardinal DE LUCA, President. ANDREAS Cardinal BIZZARRI, President. ALOISIUS Cardinal Bino, President. HANNIBA L Cardinal CAPALTI, President. IOSEPHUS E P. S. HIPPOLYTI, Secretary of

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the Council. After the reading, the Eminent First President said: "We ask only that the Reverend Fathers, who intend to adhere to this our protestation and declaration as witnesses of truth, may manifest their assent by rising." As the Fathers rose, the same President said: "A much larger part has risen." Several Fathers immediately added: "All, all." Then, the following notice was read by the Eminent First President and then by the Reverend Under-Secretary: "We ask you, Reverend Fathers, that as a testimony of your adherence, you may please provide, of the two copies of this our protestation and declaration that are distributed, one with the addition of your name (several Fathers said, with pleasure!), and deliver it to the Reverend Secretary, so that it may be preserved in the records of this Council for the perpetual memory of the matter." Several Fathers immediately added: "With pleasure," "from the bottom of our hearts," "even with blood," etc. Then, the following was read by the Reverend Under-Secretary: "Our Most Holy Lord, although this Vatican Council wishes to continue after the Fourth Session without any suspension or postponement, nevertheless, He benignly grants a general permission to the Reverend Fathers, who, for reasons of affairs to be carried out in their dioceses, wish to leave this blessed city for a time, provided that they signify their departure in writing to the Secretary."

[*Latin ed. p. 36*]

"From the Acts of the Council: It is decreed that this matter shall not be postponed beyond the Feast of Saint Martin, on November 11th of this year. Furthermore, to all within this time frame, the faculty is granted, for only one occasion, to have a general ordination outside of the scheduled times, if they deem it necessary or opportune for their diocese. Moreover, there are certain Fathers who, for grave reasons, have requested leave from the Council without the obligation to return, and regarding whom the Judges of Excuses have fulfilled their duty, presenting some account according to the Apostolic Letters *Multiplices inter*. Therefore, these Fathers have requested leave from the Council: Louis D'Herbomez, Bishop of Miletopolis, Apostolic Vicar of British Columbia, due to the most serious needs entrusted to the care of his vicariate; Thomas Croke, Bishop of Auckland, in New Zealand, due to the countless needs of his afflicted mission; Thomas Connolly, Archbishop of Halifax, due to the various and most serious needs of his diocese; Ambrose Abdu, Bishop of Mariamnensis of the Melchites, for the same reason; Alexander De la Place, Bishop of Hadrianopolis, Apostolic Vicar of Peking, due to the grave persecutions recently arisen in his vicariate; Charles Bermundez, Bishop of Popayan, in New Granada; Armand Maupoint, Bishop of Saint-Denis-de-La Réunion; Ignatius Bourget, Bishop of Marianopolis, in America, due to the grave needs of his dioceses; Emmanuel Da Silveira, Archbishop of São Salvador in Brazil and Primate, due to a more serious infirmity with

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which he had already been afflicted before arriving at the Council; Bernard Mac Quaid, Bishop of Reffens in America, due to the numerous needs of his diocese; Eugene Des Fleches, Bishop of Sinitensis, Apostolic Vicar in China; Ivo Croc, Bishop of Larada, Apostolic Vicar in Tunkino; Alexis Canoz, Bishop of Tamassensis, Apostolic Vicar in Maduré; Felix Ridel, Bishop of Philippopolis, Apostolic Vicar in Korea; Aloysius Elloy, Bishop of Tipasitanus, Coadjutor Vicar Apostolic of Central Oceania; Bernard Petitican, Bishop of Myriophytensis, Apostolic Vicar in Japan. All of these, due to the most serious needs entrusted to the care of their vicariates."

"(Judges of Excuses, etc.) The Fathers, rising, manifest their assent. Finally, Mr. D., the Under-Secretary, reads the following..."

[*Latin ed. p. 37*]

OF THE COUNCIL OF THE VATICAN. 87 NOTICE: "The Most Holy Lord has decreed that the Fourth Session of the Sacred Ecumenical Council of the Vatican shall be held on the second day of the week following, which is July 18th, at a time to be designated by announcement. In this session, the votes of the Fathers concerning the first dogmatic Constitution on the Church of Christ will be taken in precisely the same manner as was used recently in the general congregation, namely, so that the names of each of the Fathers of the Council are recited aloud in order of dignity and rank, and those whose names have been recited shall, in a clear and audible voice, give their vote by responding with 'placet' or 'non placet.' It must be noted that, according to the Apostolic Letters, *Multiplices inter*, it is not permitted to give a vote in any other way than by these words, 'placet' or 'non placet.' Furthermore, the Most Reverend Fathers are requested to occupy in this session the place that has been assigned to them according to the number in the catalog of Fathers distributed last May." The congregation was dismissed shortly before noon. CONCERNING THE FOURTH PUBLIC SESSION: A notification is to be made by the messengers, and a copy is also to be delivered at home. "On the eighteenth day of July, in the year 1870, on the second day of the week, at the ninth hour before noon, the Fourth Session of the Sacred Ecumenical Council will be held in the patriarchal Basilica of Saint Peter in the Vatican. The Most Eminent and Most Reverend Cardinals, wearing red robes with black shoes, shall proceed to the aforementioned basilica, where, after venerating the Most Holy Sacrament, they shall put on the red vestments proper to each order and shall request seats in the conciliar hall. The Most Reverend Patriarchs, Primates, Archbishops, Bishops, and Abbots who have a place in the Council, after venerating the Most Holy Sacrament as above, shall put on the sacred red vestments due to them in the prepared chapel of Saint Sebastian

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and shall proceed to the aforementioned hall."

[*Latin ed. p. 38*]

38. "A votive Mass for the Holy Spirit will be celebrated without singing by the Most Eminent and Reverend Cardinal Barili." "After the Mass, the prescribed prayers will be recited, and upon their completion, the vote will be given by the Fathers in the form prescribed by the Reverend Secretary of the Council of Saint Hippolytus on April 18th of the past year." "Therefore, all and each of the Most Eminent and Reverend Cardinals, Bishops, Abbots, and the highest superiors of Congregations and regular Orders, who, by Apostolic concession, have a place in the Vatican Council, are hereby summoned." "Also summoned are: the Vice-Chamberlain, the Prince of the Sacred Palace, the Custodian of the Council, the Reverend Auditor of the Sacred Congregation, the Prefect of the Papal Household, the Senator, the Conservators of the City, the Master of the Holy Hospital, five Protonotaries of the number of participants, four Auditors of the Rota, two Clerks of the Apostolic Chamber, four Voters of the Signature, two Abreviators of the major park, and the Officials of the Council." "BY ORDER OF THE MOST HOLY LORD POPE, Aloysius Ferrari, Apostolic Protonotary, Prefect." "This session, if one considers the external arrangements, appeared somewhat less splendid than the preceding one. For it was a weekday, and the Mass was not celebrated solemnly. The side doors, by which the larger halls are accessed, had not been opened, but the hall was only open to the public as far as the larger doors allowed: therefore, the entire multitude of people could not be seen from the hall, nor could the majority of the people see inside the council assembly. If one considered the weather, a light rain began almost with the start of the session, which, gradually increasing, became so intense that, as the Pope was about to confirm and ratify the Decrees, the density of the clouds above the Vatican (as was observed in Rome) seemed to gather entirely, and lightning and thunder accompanied the voices of the last Fathers speaking, so that there were those inside the hall of the Council who said: 'We are on Mount Sinai, receiving the law from God through Moses,' or: 'A demon is being stirred up.'"

[*Latin ed. p. 39*]

OF THE COUNCIL OF THE VATICAN. A sign that this did not please them was this (1). However, the density of the clouds had begun to dissipate shortly before the Apostolic confirmation. The appearance of the Fathers, although calm, did not seem to possess the same joy, as was seen in the preceding sessions. The cause of this was the thought that most of the Fathers, who had initially opposed the definition, had finally remained steadfast in their opinion, as was evident from the preceding and final general congregations. In that congregation, a certain sadness had been instilled in many of the Fathers by this obstinacy in an opinion which the

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congregation itself, after so many and such discussions, had indicated to be erroneous; and there were not lacking in that congregation Fathers who, with fraternal charity, and even with joined hands, begged their friends to finally abandon that opinion and to agree with everyone else. In short, the appearance of the Fathers in this public session seemed to indicate that something was lacking, which one could almost read on their faces: "Peter, confirm your brothers!" What the external arrangements did not provide, God provided with a miraculous outcome, immediately after the Pope, with his authority, confirmed and sanctioned the Decrees and Canons, as we shall explain below. Therefore, at the ninth hour, while the Fathers stood there, dressed in robes of a rain-like red color, the Mass of the Holy Spirit was celebrated without singing by the Most Reverend Cardinal Barili. After the Mass, the Supreme Pontiff descended into the hall and, after a brief prayer at the altar, approached the *solium* and ascended it. After the customary prayers, the Most Reverend Deacon Capalti sang the Gospel from Matthew, chapter 16. After the hymn "Veni Creator" was sung, the Bishop of S. Hippolyti, Secretary of the Council, and the Bishop of Fabriano approached the *solium* of the Pope, who, having received from the Secretary the text of the first dogmatic Constitution on the Church of Christ, instructed the Bishop of Fabriano to read it. This text was carefully reviewed and revised again, according to (1) "The thunder was scarcely heard in the very majesty of the temple: the lightning, which the pagan Jupiter had prepared, could not inflict any damage on the city, and, having been absorbed by the Roman earth, left no trace; the rain that fell with fury passed more quickly through the sewers, carrying away with its violence that which would still have dishonored the public roads; there remained, in fact, a certain light rain, almost from a clear sky, a salutary rain for the earth."

[*Latin ed. p. 40*]

40 FROM the acts which we have recounted concerning the last General Congregation, the messenger had already been sent to the house of each of the Fathers. Therefore, the Bishop of Fabriano ascended the ambo and, with a loud voice, read the Constitution, which the Fathers held in their hands, and which is of the following tenor:

PIUS, BISHOP, SERVANT OF THE SERVANTS OF GOD, WITH THE SACRED APPROBATION OF THE COUNCIL, FOR THE PERPETUAL COMMEMORATION OF THE MATTER.

"The eternal Pastor and Bishop of our souls, so that He might render the salutary work of redemption perpetual, decreed to build the holy Church, in which all the faithful, as in the house of the living God, might behold each other united by the bond of one faith and charity. Therefore, before all things, He prayed the Father, not only for the Apostles, but also for those who were to believe through their word in Him, that they might all be one,

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just as He, the Son, and the Father are one. Just as, therefore, He sent the Apostles, whom He had chosen from the world, just as He Himself was sent by the Father, so He willed that Pastors and Doctors should be in His Church until the consummation of the ages. In order that the episcopate itself might be one and indivisible, and that the entire multitude of the faithful, through priests united to each other, might be preserved in the unity of faith and communion, He instituted, placing blessed Peter above the other Apostles, a perpetual principle and visible foundation of both unity, upon whose strength the temple would be eternally built, and the sublimity of the Church would arise in the firmness of this faith (1). And since the gates of hell rise up against this foundation, which has been divinely established, in order to destroy, if it were possible, the Church, We judge it necessary for the protection, safety, and growth of the Catholic flock, with sacred approval..."

(1) St. Leo M., Sermon IV (or III), chapter 2, on the day of his Nativity.

[*Latin ed. p. 41*]

OF THE VATICAN COUNCIL. 41 Whereas, during the Council, the doctrine concerning the institution, perpetuity, and nature of the sacred apostolic primacy, in which the strength and solidity of the entire Church consist, is to be proposed to all the faithful for belief and adherence, according to the ancient and constant faith of the universal Church, and contrary errors, so pernicious to the flock of the Lord, are to be condemned and rejected. CHAPTER I. CONCERNING THE INSTITUTION OF THE APOSTOLIC PRIMACY IN BLESSED PETER. "Therefore, we teach and declare, according to the testimonies of the Gospel, that the primacy of jurisdiction over the entire Church of God was promised and conferred immediately and directly by Christ the Lord to the blessed Apostle Peter. For to Simon, to whom He had already said a long time before: "You shall be called Cephas" (1), after he had made his confession, saying: "You are the Christ, the Son of the living God," the Lord spoke these solemn words: "Blessed are you, Simon Bar-Iona; for flesh and blood has not revealed this to you, but My Father, who is in heaven; and I say to you, you are Peter, and upon this rock I will build My Church, and the gates of hell shall not prevail against it; and to you I will give the keys of the kingdom of heaven; and whatever you shall bind on earth shall be bound also in heaven; and whatever you shall loose on earth shall be loosed also in heaven" (2). And after His resurrection, Jesus conferred upon Simon Peter the jurisdiction of the highest shepherd and ruler over His entire flock, saying: "Feed My lambs; Feed My sheep" (3). To this most manifest doctrine of the sacred Scriptures, which has always been understood by the Catholic Church, are openly opposed the erroneous opinions of those who, perverting the form of government established by Christ the Lord in His Church, deny that Peter alone, among the other Apostles, whether separately or individually

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or all together, was truly and properly endowed by Christ with the primacy of jurisdiction; or who assert that the same primacy was not conferred immediately and directly upon the blessed Peter himself, but upon the Church, and through this Church, as to him as a minister of that Church. (1) John 1:42. (2) Matthew 16:16-19. (3) John 21:15-17.

[*Latin ed. p. 42*]

42 FROM THE ACTS: "If anyone should say that blessed Peter, the Apostle, was not established by Christ the Lord as the chief of all the Apostles and the visible head of the entire Church; or that he received only honor, but not true and proper jurisdiction, directly and immediately from our Lord Jesus Christ; let him be anathema. CHAPTER II. CONCERNING THE PERPETUITY OF THE PRIMACY OF BLESSED PETER IN THE ROMAN PONTIFFS. "That which the Lord Christ Jesus, the chief of pastors and the great shepherd of the sheep, instituted in the blessed Apostle Peter for the eternal salvation and lasting good of the Church, must necessarily endure perpetually in the Church, which is founded upon the rock until the end of the ages, and will remain firm. It is certainly not doubtful, indeed, it is known to all ages, that the holy and most blessed Peter, the prince of the Apostles and the head, the pillar of faith, and the foundation of the Catholic Church, received from our Lord Jesus Christ, the Savior of the human race and the Redeemer, the keys of the kingdom: (1) and that, until this time and always, he lives and presides and exercises judgment in his successors, the bishops of the holy Roman See, founded by him, and consecrated by his blood. Therefore, whoever succeeds Peter in this Chair, according to the very institution of Christ, obtains the primacy of Peter over the entire Church. Therefore, the disposition of truth remains, and blessed Peter, persevering in the strength he received from the rock, did not abandon the governance of the Church entrusted to him. (2) For this reason, it has always been necessary for the entire Church, that is, for those who are faithful everywhere, to come together to the Roman Church because of its more powerful principalship, so that, as members united to the head, they may coalesce into a single body in that See, from which the rights of venerable communion flow forth to all. (3) "If anyone should say that it is not by the institution or divine law of Christ the Lord, that blessed Peter has perpetual successors in the primacy over the entire Church; or that Rome..."

(1) Cf. Acts of the Council of Ephesus, Session III.

(2) St. Leo the Great, *Sermon* III (or XI), chapter 3.

(3) St. Irenaeus, *Against Heresies*, Book I, chapter 3, and the Council of Aquileia, in the year 381, among the works of St. Ambrose, epistle XL.

[*Latin ed. p. 43*]

OF THE COUNCIL OF THE VATICAN. 43: The Pontiff is not the succes-

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sor of blessed Peter in the same primacy; let him be anathema. CHAPTER III: OF THE POWER AND REASON OF THE PRIMACY OF THE ROMAN PONTIFF. "Therefore, with the testimonies of the sacred Scriptures plainly set forth, and adhering to the clear and explicit decrees of Our Predecessors, the Roman Pontiffs, and of the general Councils, We renew the definition of the ecumenical Council of Florence, which all the faithful of Christ must believe, namely, that the Holy Apostolic See, and the Roman Pontiff in its entirety, hold the primacy over the whole world, and that the Roman Pontiff is the successor of the blessed Peter, the prince of the Apostles, and the true Vicar of Christ, and the head of the whole Church, and the father and teacher of all Christians; and that to him has been fully entrusted by our Lord Jesus Christ the power of feeding, governing, and guiding the universal Church. As is also contained in the acts of the ecumenical Councils and in the sacred canons. "We therefore teach and declare that the Roman Church, by the will of God, holds a primacy of ordinary power over all other churches, and that this power of jurisdiction of the Roman Pontiff is truly episcopal, and is immediate: towards which all pastors and the faithful, of whatever rite and dignity, both individually and together, are bound by the duty of hierarchical subordination and true obedience, not only in matters pertaining to faith and morals, but also in those pertaining to discipline and the government of the Church throughout the world; so that, maintaining communion with the Roman Pontiff, as well as the unity of the same faith, the Church of Christ may be one flock under one supreme pastor. This is the doctrine of the Catholic truth, from which no one can deviate and remain safe in faith and in salvation. "However, it is far from the truth that this power of the Supreme Pontiff is contrary to the ordinary and immediate episcopal power of jurisdiction, with which the Bishops, who have been placed by the Holy Spirit in the place of the Apostles, are endowed, as true pastors assigned to their flocks.

[*Latin ed. p. 44*]

44. From the Acts, each individual pastors and governs, so that the same [unity] may be asserted, strengthened, and defended by the supreme and universal Pastor, according to the words of the great Saint Gregory: "My honor is the honor of the universal Church. My honor is the solid strength of my brothers. Then I am truly honored, when to each and every one, the due honor is not denied" (1). Furthermore, from that supreme power of the Roman Pontiff to govern the entire Church, the right follows for him to freely communicate with pastors and flocks of the whole Church in the exercise of this office, so that they may be taught and guided by him in the way of salvation. Therefore, we condemn and reject the opinions of those who say that this communication between the supreme head and the pastors and flocks can be lawfully hindered, or that it is made subject to secular power, so that they contend that those things which are established

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by the Apostolic See or its authority for the governance of the Church do not have force or value, unless they are confirmed by the judgment of secular power. And since the Roman Pontiff, by the divine right of the primacy, presides over the entire Church, we also teach and declare that he is the supreme judge of the faithful (2), and that in all matters pertaining to ecclesiastical examination, recourse may be had to his judgment (3); and that the judgment of the Apostolic See, whose authority is greater than none, must be retracted by no one, nor is it lawful for anyone to judge the judgment of that See (4). Therefore, they err from the straight path of truth who affirm that it is permissible to appeal from the judgments of the Roman Pontiffs to the ecumenical Council as to an authority superior to the Roman Pontiff. If, therefore, anyone should say that the Roman Pontiff has only the office of inspection or direction, but not the full and supreme power of jurisdiction over the entire Church, not only in matters pertaining to faith and morals, but also in those pertaining to discipline and the governance of the Church throughout the world; or that he has only certain powers, but not the entire fullness of this supreme power; or that this power of his is not ordinary and immediate, or in all cases;

(1) Ep. ad Eulog. Alexandrin. I. VIII ep. X.

(2) Pius PP. VI Breve, Super soliditate, d. 28 Nov. 1786.

(3) Concil. Oecum. Lugdun. II.

(4) Ep. Nicolai I ad Michaelem Imperatorem.

[*Latin ed. p. 45*]

OF THE COUNCIL OF THE VATICAN. 45. Anathema sit to those who, concerning individual churches, or concerning all and each pastors and faithful, hold opinions contrary to what has been defined. CHAPTER IV. CONCERNING THE INFALLIBLE MAGISTERIUM OF THE ROMAN PONTIFF. "This Holy See has always maintained, and the perpetual usage of the Church confirms, that the supreme power of the magisterium is also included in the very Apostolic Primacy which the Roman Pontiff holds as the successor of the Apostle Peter, the prince of the Apostles, over the entire Church; and the ecumenical Councils themselves, especially those in which the East and the West were united in faith and charity, have declared this. For the Fathers of the Fourth Council of Constantinople, following in the footsteps of their predecessors, made this solemn declaration: 'The first and most important thing is to observe the rule of right faith.' And because it is impossible to disregard the words of our Lord Jesus Christ: 'You are Peter, and upon this rock I will build my Church,' these things are proven by their effects, because in the Apostolic See, the Catholic religion is always preserved in purity, and the holy doctrine is celebrated. Therefore, not wishing to be separated from this faith and doctrine, we hope to deserve to be united in that one communion which the Apostolic See proclaims, in which is the integrity and the true solidity of the Christian religion

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(1)." Furthermore, the Second Council of Lyons declared that the Greeks professed: "That the Holy Roman Church holds the supreme and full primacy and pre-eminence over the entire Catholic Church; which they truly and humbly acknowledge as having been received from the Lord Himself in blessed Peter, the prince of the Apostles, or the head, whose successor is the Roman Pontiff, with the fullness of power; and just as they are bound to defend the truth of the faith above all others, so too, if any questions have arisen concerning the faith, they ought to be defined by their judgment." Finally, the Council of Fiorentino defined: "That the Roman Pontiff is the true Vicar of Christ, the head of the whole Church, and the father and doctor of all Christians; and that to him, in blessed Peter, has been entrusted by our Lord Jesus Christ the fullness of power to feed, govern, and rule the universal Church (1)."

(1) From the formula of St. Hormisdas, Pope, as proposed by Hadrian II to the Fathers of the ecumenical Council of Constantinople IV, and subscribed by them.

[*Latin ed. p. 46*]

46 FROM THE ACTS: "To fulfill this pastoral office, Our Predecessors have always devoted tireless effort to spread the saving doctrine of Christ among all the peoples of the earth, and with equal care, they have watched over that, once received, it be preserved in its purity and integrity. Therefore, the bishops of the entire world, now individually, now in Synods assembled, following the long tradition of the Church and the ancient form of the rules, have brought to this Apostolic See, especially those dangers that arose in the matters of faith, so that there, above all, the damages to the faith might be repaired, where faith cannot suffer any deficiency (1). The Roman Pontiffs, as the condition of the times and circumstances suggested, have, at times, convened ecumenical Councils, or explored the sentiments of the Church dispersed throughout the world, at other times through particular Synods, and at other times, with the help of other means provided by divine providence, have defined those things which, with the help of God, they have recognized to be in accordance with the sacred Scriptures and the apostolic Traditions. For the Holy Spirit was not promised to the successors of Peter to reveal a new doctrine through Him, but so that, with His assistance, they might piously safeguard and faithfully expound the revelation, or the deposit of faith, handed down by the Apostles. Those venerable Fathers and the holy orthodox Doctors have embraced this apostolic doctrine; fully knowing that this See of Peter has always remained free from all error, according to the divine promise made by Our Lord and Savior to His disciples: "But I have prayed for thee, that thy faith fail not: and thou, being once converted, confirm thy brethren." "Therefore, this grace of truth and of faith, which never fails, has been divinely bestowed upon Peter and his successors in this Chair, so that, by their exalted office,

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they may contribute to the salvation of all, so that the entire flock of Christ, through them, may be turned away from the poisonous food of error and nourished with the food of heavenly doctrine, so that, with the occasion of schism removed, the entire Church may be preserved as one, and, firmly established upon its foundation, may stand firm against the gates of hell." But it is truly the case that, in this very age, in which the effectiveness of the saving work of the Apostles is most needed, there are not a few who reproach that authority; therefore, it seems necessary to solemnly assert that prerogative which the Only Begotten Son of God deigned to join with the highest pastoral office. (1) Cf. St. Bernard, Epistle 190.

[*Latin ed. p. 47*]

VATICAN COUNCIL. 47 "Therefore, adhering faithfully to the tradition received from the very beginning of the Christian faith, for the glory of our Savior God, for the exaltation of the Catholic religion, and for the salvation of the Christian people, with the sacred Council approving, We teach and define as a dogma divinely revealed: that the Roman Pontiff, when he speaks *ex Cathedra*, that is, when, fulfilling the office of pastor and doctor of all Christians, he defines a doctrine concerning faith or morals to be held by the entire Church, possesses that infallibility with which the divine Redeemer willed that his Church should be endowed when defining a doctrine concerning faith or morals; therefore, such definitions of the Roman Pontiff are irreformable by themselves, and not by the consent of the Church." "If anyone should presume to contradict this Our definition, may he be anathema." After the reading was concluded, the Bishop of Fabriano rose and added: "Reverend Fathers, do these Decrees and Canons, which are contained in the Constitution, please you?" Then, he descended, and the Reverend Under-Secretary ascended the ambo, and the calling of all the Fathers began, who, unless prevented by accident, could be present at the synod. We believe that we are providing a valuable historical document if we indicate which of the Fathers were present at the session; and which were absent, according to the calling made this day before the Pope in the conciliar hall. Although some of those called were absent due to accidental impediments; most of them were those who had denied their positive vote in the preceding general Congregation. I do not know the reason for their absence; for whatever they may have said, written, or thought in the preceding general Congregations, were acts, as it were, private, were their own opinions, were learned discussions, and those general Congregations were acts preparatory, and nothing more. For in the public session before the Pope, who is present as the supreme head of the Church, the entire Catholic Church, teaching in act, is represented, with the intention of approving or disapproving. This is the act of a legitimately convened ecumenical synod, which, by divine promise, cannot be erroneous, whether all the Bishops are present or only a few: for where Peter is, there is the Church. Therefore, the

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Bishops who..."

[*Latin ed. p. 48*]

48. By acting in this manner, those who felt, as did the great majority of the General Congregation, that their absence from this session would be detrimental, accomplished nothing other than to allow it to be truly said that the opinion of the majority of the Congregation was the opinion of all the Fathers of the œcumenical Synod, with only two exceptions, whom I will indicate below. The Fathers who were summoned to this public session, and who were present or absent, are as follows. From the ranks of Cardinals, all the Cardinals who are listed in the catalogue (1) were summoned, with the exception of those who are marked with an asterisk * therein. However, the following Cardinals were absent from those who were summoned: Cardinal Mallei, Cardinal Schwarzenberg, Cardinal Mathieu, Cardinal Raucher, Cardinal Orfei, and Cardinal D'Hohenlohe. That is, of the forty-eight who were summoned, six were absent. From the ranks of Patriarchs, the following were summoned: the Patriarch of Constantinople, of the Latin rite; the Patriarch of Alexandria, of the Latin rite; the Patriarch of Antioch, of the Greek Melkite rite, who was absent; the Patriarch of Jerusalem, of the Latin rite; the Patriarch of Babylon, of the Chaldean rite, who was absent; the Patriarch of the West Indies, of the Latin rite; the Patriarch of Cilicia, of the Armenian rite; and the Patriarch of Antioch, of the Greek Melkite rite. From the ranks of Primates, all those who are indicated by these numbers in the catalogue provided by us, Volume V, pages 513 and following, were summoned: 1, 2, 4, who was absent; 5, 6, 8, who was absent; 9, 10, 11 (that is, the Archbishop of Lyons, who was omitted from the catalogue provided among the Primates), who was absent. From the ranks of Archbishops, the following were summoned, as indicated by these numbers in the catalogue: 13, 15, who was absent; 17, who was absent; 20, 24, 26, 28, 30, 31, 32, 34, 35, who was absent; 36, who was absent; 37, 38, 40, 41, 43, 44, 45, 46, 48.

(1) Readers who wish to see the names of the Fathers that we will mention must keep before their eyes the catalogue that we provided in Volume V, pages 45 and following.

[*Latin ed. p. 50*]

50 EX ACTIS 581, 582, 583, 584, 586, 588, 589, 590, 591, 593, 594, 596, 598, qui abfuit, 599, 600, 601, 602, 603, 604, qui abfuit, 605, 606, 607, qui abfuit, 608, 609, 611, 612, 613, 614, 616, 617, qui abfuit, 622, qui abfuit, 623, 624, 625, 626, 628, 630, qui abfuit, 631, 632, 633, 635, qui abfuit, 636, 641, 643, 644, qui abfuit, 649, 650, qui abfuit, 652, 658, 659, 660, 661, 663, 664, 666, 668, 669, 670, 672, 674, 679, 680, 681, 682, qui abfuit, 685, 686, 687, qui abfuit, 690, 691, 692, 693, 695, 696, 697, 698, 701, 703, 705, qui abfuit, 706, qui abfuit, 707, qui abfuit, 708, qui abfuit, 709, 711, 712, 714, qui abfuit, 715, 716, 720,

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qui abfuit, 723, 727, 728, 730, 731, 732, 733, 735, 738, 741, 743, 744, 748, 749, 752, 754 (1), 755, 756, 757, qui abfuit, 758, 760, qui abfuit, 761, qui abfuit, 762, 763, 764, 765, 766, 767, 768, 772, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 785, 787, 788, qui abfuit, 789, qui abfuit, 790, 791, qui abfuit, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, qui abfuit, 805, qui abfuit, 806, qui abfuit, 808, qui abfuit, 809, 810, 811, 813, qui abfuit, 816, qui abfuit, 819, 820, 822, 823, qui abfuit, 824, 825, qui abfuit, 828, 829, §30, 832, 833, 835, 837, qui abfuit, 838, 840, qui abfuit, 841, 842, 845, qui abfuit, 846, 849, 850, 851, 852, 853, 854, 855, 859, 865, qui abfuit, 866, 867, 869, 871, 872, 874, qui abfuit, 877, 878, 879, 880, 881, 882, qui abfuit, 883, 885, qui abfuit, 889, 893, 894, 895, 897, qui abfuit, 900, qui abfuit, 901, 903, 906, 909, 911, qui abfuit, 912, 913, 914, 915, 916, 917, 918. Ex RR. Abbatibus nullius Dioecesis. 920, 921, 922, 928. Ex RR. Abbatibus Generalibus Ordinum Monasticorum. 924, 925, 928, 929, qui abfuit, 930, 931, 932, 934, 935, 936, 937, qui abfuit, 942, qui abfuit, 943, 944, 945. "Massit placet," ille suo iure utente elatiore voce iterum dixit non placet; quod fuit recte repetitum ab eodem officiali, (1) Episcopus hoc numero 754 designatus, idest Petriculanus, non fuerat appellatus, propterea quod a Secretario petierat ut in appellatione praeteriretur, quamquam synodo interesse vellet; at postea in ipsa aula Concilii, passus non est eiusmodi praeteritionem, petiit, que, ut appellaretur: quare appellatus fuit post expletam Episcoporum appellationem, idest post numerum 918, atque respondit: non placet.

[*Latin ed. p. 51*]

OF THE COUNCIL OF THE VATICAN. 51 From the Reverend Generals and Vicars General of the Congregations of Clerics Regular. 947, 948, 949, 950, 951, 952, 953, 954. Of the Monastic Orders. 956, 957. Of the Mendicant Orders 960, 962, 963, 964, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975. Therefore, 535 Fathers were present at this session, of whom 533 responded, "it pleases," while two, that is, the Bishop of Caiacus, and the Bishop of Petricula, responded, "it does not please." Of the number of Fathers who were called, 112 were absent. This synodal act of calling and giving votes was concluded near midday; eight hours had elapsed. Then, a report on the votes given was presented before the Roman Pontiff, seated on the throne, by the Reverend Secretary, accompanied by the Scrutineers. Then, the Pontiff, having heard the report, rose and, with Apostolic authority, confirmed the Constitution with these words: "The decrees and canons, which are contained in the Constitution just read, have pleased all the Fathers, with the exception of two; and We, with the sacred Council approving, define those and those, as are contained in the Constitution just read, and confirm them with Apostolic authority." With these words spoken, such a change occurred that it can scarcely be described: for it would need to be described how the innermost hearts of all were filled with the most intense joy. Im-

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mediately, the Fathers were filled with applause. The people, and...

[*Latin ed. p. 52*]

52 FROM the lowest tier of seats, which, having disregarded the annoyance of the rain, was crowded with people frequenting St. Peter's, scarcely had they heard such applause, so much so that they joined in, and, by the unexpected novelty of the event, they did not know at that moment where they were: for the very temple of the Princes of the Apostles, setting aside all customary considerations, seemed to resound with a joyous clamor. For that venerable custom prevails in Rome, that such applause within the sacred temple would cause scandal. These were not the applauses which are stirred up by eagerness or frenzy, which we have had to witness again and again in these last hours, while we are writing these words, by desperate and lost men, who infest the most peaceful city, but they were applauses spontaneously flowing forth from joy, with which, not the sons of men, who are servants, but the sons of God, called to true freedom, rejoice, which those do not even understand. Those two Bishops, who had expressed dissent, now both declared themselves to be in agreement with the Fathers, and indeed, as if the words were lacking to express their firm adherence from the heart, they spoke after Peter had spoken. Indeed, we do not doubt that the same would have happened to the other Bishops who differed from the opinion of the General Congregation, if they had been present at the session. In truth, if many of them, outside the synod, have already demonstrated their faith through outstanding declarations, either before the Pope or before the people entrusted to them; what would they not have done in the synod, with Peter confirming [their position]? And so, with the Fathers and the faithful rejoicing, the Pope spoke; and, with a gentle gesture of his hand, he indicated silence to the assembly.

(1) It was not a crowd that gathered, since it was a day of rest; nor were there many women, since the rain hindered them; the majority of the people were not foreigners, since these people do not come to Rome, nor do they stay in Rome, during the height of summer; nor were there strangers or neighbors who might have come, having heard of the session, since this news was first given in the hall after the General Congregation on the 16th, for a session to be held on the 18th; nor could the celebration of the session have been foreseen so soon, since it was known how many Fathers had requested permission to speak. And it is almost a miracle that this happened (while the solemnities of the Princes of the Apostles were continuing) in the General Congregations 81 and 82, in which many Fathers, having obtained permission to speak, spontaneously renounced it, beyond all common expectation; for if this had not happened, this session would still be awaited. Therefore, the majority of the people were from our own ranks, who clearly understood that a matter of the greatest importance

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for the entire Christian republic was being discussed in that session.

[*Latin ed. p. 53*]

VATICAN COUNCIL. 53 "This authority of the Roman Pontiff, Venerable Brothers, does not oppress, but aids; it does not destroy, but builds, and most frequently it confirms in dignity, unites in charity, and strengthens and protects the rights of the Brothers, that is, the Bishops. Therefore, let those who now judge in turmoil know that the Lord is not in the turmoil. Let them remember that a few years ago, those holding the opposite opinion were abundant in their sentiments and in the sentiments of the greater part of this vast assembly (1); but then they judged in the spirit of a gentle breeze. Can two opposite consciences exist in the same judgment? May it be far from us. May God enlighten minds and hearts; and since He alone works great wonders, may He enlighten minds and hearts, so that all may approach the bosom of the Father, of Christ Jesus, the unworthy Vicar on earth, who loves them, cherishes them, and desires to be one with them. And thus, united in the bond of charity, we may wage the Lord's battles, so that not only will our enemies not mock us, but rather they will fear, and sometimes the weapons of malice will yield before the truth, so that all may say with St. Augustine: 'You called me into your wonderful light, and behold, I see.' May God bless you."

Immediately, new applause arose. As the Protonotaries and Promoters of the Council approached the Pontiff's seat, they requested that instruments be drawn up of all that had been done in the session; and they promised to do so, with witnesses named (1).

Here, the Roman Pontiff seems to allude to a doctrine that has been openly expressed and transmitted by the same Bishops, either in countless acts of real obedience sent to him, or in solemn letters subscribed with the common consent of the Bishops, or in propositions sincerely offered when the dogma of the Immaculate Conception was to be defined, or in doctrines transmitted in provincial synods, or in pastoral letters. All of these, which were transmitted with a peaceful spirit, commonly contained the Catholic doctrine on the infallibility of the Roman Pontiff, so that it was a doctrine that should be believed with good reason; and that, if such a doctrine were to be proposed in an ecumenical council for its more solemn promulgation for the benefit of the faithful, no difficulty whatsoever would arise from the part of the Bishops: for this was the openly expressed doctrine of the Catholic Church through the Episcopate in our time.

From this, it is clear how undeservedly some have harshly rebuked Catholic writers who have promoted this doctrine and definition, as if they had done so with the intention of contradicting the Bishops. It is scarcely conceivable that this could have occurred, since it was abundantly clear from public documents that, in our time, there were no angels of the

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churches who harbored an adverse, erroneous doctrine.

[*Latin ed. p. 54*]

54 FROM THE ACTS. Thus, the Pontiff began to chant the hymn, "Te Deum," at a time when it was almost midday, approximately the seventh hour, so that the Apostolic blessing also occurred at the very moment of noon (which is the beginning of the second part of the day, when we turn towards vespers); and the act of thanksgiving, after a very brief interval of time, followed after midday. Moreover, the manner in which this act of thanksgiving proceeded through the angelic hymn was, beyond all expectation, equally singular. The papal singers continued the verse that the Pontiff had begun. I do not know how it happened, but the entire congregation surpassed the singers, so that what the singers should have sung alone, the people sang along with the singers, whose voices were compelled to follow the voice of the people; and thus the congregation responded to the synod. Although the people thought they were responding to the synod, and the synod seemed to hold the first part in the singing (1). Thus, the hymn proceeded with the greatest solemnity, alternating, until its conclusion, to which, as a crown of common joy, the solemn Apostolic Blessing followed: and the session was concluded. As the Bishops were leaving, the faithful eagerly kissed their rings and sacred vestments, giving thanks together. I have endeavored to describe these events in detail, because they concern the most solemn act of the Catholic Church, and are of the greatest importance for the entire Christian republic. It is now clear to all what events have transpired in public affairs as a result of this. For, on the following day, July 19th, the news spread that the French Government had declared war on the Prussian Government. (1) In my opinion, this is how it will occur throughout the Church, as soon as midday arrives, when all the people will again be invited to the wedding of the Lamb, not only with dew, but with the abundant rain of God. For these people will draw the Prelates, Governments, and Kings of the Church to themselves, although outwardly they may seem to be led by the Prelates, Governments, and Kings. We already seem to glimpse the beginnings of these things, of which we have written something in Volume IV, page 540, concerning how, on April 11, 1869, throughout the world, and without sufficient human cause, a most solemn celebration was held, beyond human memory. Follies are those which the heart of man does not utter, those which the men of this age, immersed in their sophisms, do, by which they entice unsuspecting people, desiring the unity of nations under one government, extolling the rights of the people, and proclaiming unlimited freedom. God will indeed bring about the true unity of nations in faith, under one universal Shepherd; He Himself will awaken the true rights of the people, so that they may attain

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the freedom to which the sons of God are called.

[*Latin ed. p. 55*]

THE VATICAN COUNCIL. After an interval of fifty-five days, marked by most atrocious battles, and with the Gallic forces overcome, the Emperor of Gallia is captured on September 2nd, and remains in the hands of the enemy. While this war continues in Gallia, the Italian Government, seizing this opportunity, with great clamor desires Rome and the remaining small pontifical territories. Finally, its envoy, accompanied by an army, forcibly takes Rome on September 20th. From all sides, factions and seditious crowds converge upon Rome, and, through a lawless plebiscite, the Apostolic See, together with the Supreme Pontiff of the entire Church, is in the hands of the Italian Government. Thus, in the present circumstances, both the Moderator of public justice and the Master of public morality are in the hands of others. We shall very soon see what God will accomplish through this. Furthermore, in the state in which human society now finds itself, two great powers seem necessary, which should deliberate together, and each act according to its own reason: one of which, having long existed, has been endowed with new splendor through the fourth session of the Vatican Council; the other is steeped in divine counsels.

[*Latin ed. p. 56*]

56 FROM THE VATICAN, LETTERS GIVEN IN PROTEST, ON THE VERY DAY OF THE INVASION OF THE CITY, SEPTEMBER 20, IN THE YEAR 1870, TO THE DIPLOMATIC BODY OF GOVERNORS, BY PATENT LETTERS INSTRUCTED AT THE HOLY SEE. From the rooms of the Vatican, September 20, 1870. "It is well known to Your Excellency the violent usurpations committed by most of the States of the Church in June of the year 1859 and in September of the following year, 1860, by the Government established in Florencia, and it is also known the solemn reclamations and protests against this sacrilegious spoliation, made by His Holiness, both with Allocutions pronounced in Consistory and subsequently published, and with notes directly from the undersigned Cardinal Secretary of State to the diplomatic body accredited to the Holy See." The invading Government would certainly not have ceased to commit this sacrilegious spoliation if the French Government, conscious of the...

[*Latin ed. p. 57*]

"Letters of Protestation 57 ambitious designs against him, had not arrested him by taking Rome and its small territory under its protection, maintaining a garrison there. But subsequently, agreements were concluded between the French and Florentine Governments, by which it was believed that the preservation and tranquility of the remaining territories belonging to the Holy See would be ensured, and the French troops withdrew. However, these agreements were not respected; and

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in September of the year 1867, certain bands of brigands, spurred on by hidden hands, invaded the Papal territory with the perverse intention of surprising and occupying Rome. Then the French troops returned, and these, assisting our faithful soldiers, who were already victoriously fighting against the invasion, finally, in the fields of Mentana, broke the audacity of the invaders, and completely thwarted their unjust designs. But when the French Government, having declared war on Prussia, recalled its troops, it did not fail to remind the Florentine Government of the obligations it had undertaken through the aforementioned agreements, and to demand from it the most solemn promises regarding the certain fulfillment of these obligations. But the fortune of war…"

[*Latin ed. p. 58*]

§ 8. LETTERS. He gives final assurances of their observance. But, since the fortunes of war had been unfavorable to France, the Government of Florence, taking advantage of these setbacks, and in defiance of the aforementioned agreements, made the dishonest resolution of sending a large army, and with this, to completely despoil the domains of the Holy See, while everywhere, despite the pressing incitements coming from outside, perfect peace reigned, and everywhere, "particularly here in Rome, spontaneous and continuous demonstrations of fidelity, obedience, and utterly filial love towards the august person of the Holy Father" were being made. Before committing this last act of such atrocious injustice, Count Ponza of Saint Martin was sent to Rome with a letter written to the Holy Father by King Victor Emmanuel, in which it was declared that, because the Government of Florence could not contain the fervor of national aspirations and the agitation of the so-called "action" party, it was compelled to occupy Rome and the remainder of its territory. Your Eminence can easily imagine the profound sorrow and the intense indignation with which the Most Blessed Father received that declaration. However, steadfastly adhering to the execution of his sacred duties, and devoting himself entirely...

[*Latin ed. p. 59*]

"LETTERS OF PROTESTATION, the 59th of the Holy Father, concerning so unheard-of a declaration. However, steadfast in the fulfillment of his sacred duties, and, fully trusting in divine Providence, he firmly rejected every proposal, being obliged to preserve intact his sovereignty, as it has been transmitted to him by his predecessors." In the presence of this fact, which tramples upon the most sacred principles of every law, and especially that of nations, committed under the eyes of all of Europe, His Holiness has ordered the undersigned Cardinal Secretary of State to strongly demand and protest, as he, in the august name of His Holiness, demands and protests against the unworthy and sacrilegious dispossession of the domains of the Holy See, holding the King and his Government responsible for all

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damages that result to the Holy See and to the pontifical subjects from such a violent and sacrilegious usurpation. "Furthermore, His Holiness has ordered that it be declared, as the undersigned, in the august name of His Holiness, declares, that such usurpation is null, void, and of no value, and that it can never inflict any prejudice upon the incontrovertible and legitimate rights of dominion, and, committing all things to the divine Providence, he firmly opposed every proposed opinion, thinking of himself, and sought to safeguard the same principality transmitted to him by his predecessors, intact and secure. Therefore, since this fact is present, which tramples upon all the most sacred principles of every law, and especially that of nations, and which has been committed before the eyes of all of Europe, the Most Holy Father has given a mandate to the undersigned Cardinal, to strongly demand and protest, as he, in the august name of His Holiness, demands and protests against the unworthy and sacrilegious usurpation of the domains belonging to the Holy See, demanding an accounting from the King and his Government for all the damages resulting to the Holy See and to the subjects of the Pontiff from this so violent and sacrilegious seizure. Moreover, the Most Holy Father commands that it be declared, as the undersigned, in the august name of His Holiness, declares, that this act of robbery is null, void, and of no value, and that no detriment can arise from it to the legitimate and beyond all controversy, rights of dominion and possession, both his own, and also those of his successors forever, and if from their exercise."

[*Latin ed. p. 60*]

60 "Letters of PROTESTATION regarding possession, both of his own and of his successors in perpetuity, and if force prevents the exercise thereof, His Holiness intends and desires to preserve it intact, in order to reclaim its actual possession in due time." The undersigned Cardinal, Secretary of State, in informing Your Excellency, by express order of His Holiness, of this most grievous event, and of the consequent protests and claims, hopes that Your Excellency will bring all of this to the attention of your Government, and trusts that the same will take due interest in favor of the Supreme Head of the Catholic Church, placed in a condition in which he cannot exercise his spiritual authority with that full freedom and independence which are indispensable to him. "Thus, the sovereign will having been fulfilled, the undersigned has nothing left to do but to take advantage of this new opportunity to reaffirm to Your Excellency the sentiments of his most distinguished esteem." G. Card. ANTONELLI. "It is forbidden to you, nevertheless, His Holiness intends, and desires, its complete preservation, and to reclaim its actual possession in due time. The undersigned Cardinal, as he informs Your Excellency, by the express order of His Holiness, of this most infamous outrage, as well as of the reclamations and protests, hopes that you will make all these things

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known to your Government, and it is hoped that your Government will pursue the matter with due diligence for the Supreme Head of the Catholic Church, placed in such a difficult situation, so that he may not be able to exercise his spiritual authority with that freedom and independence which he can never lack for the sake of his ministry. With the Supreme Pontiff's will thus fulfilled, the undersigned has nothing left to do, except to take advantage of the opportunity offered by this new event, to express to you, Your Excellency, the sentiments of his most particular esteem." I. Card. ANTONELLI.

[*Latin ed. p. 61*]

61 FROM THE VATICAN, LETTERS FROM THE MOST HOLY FATHER TO THE MOST EMINENT CARDINALS OF THE HOLY ROMAN CHURCH, DATED SEPTEMBER 29, 1870, CONCERNING THE SACRILEGIOUS INVASION OF THE CITY. PIUS IX, POPE: Beloved Sons, Health and Apostolic Benediction. "Our Lord Jesus Christ, who humbles and exalts, mortifies and vivifies (1), who scourges and saves (2), has recently permitted that this Roman city, the Seat of the Supreme Pontificate, should fall into the hands of enemies, together with that other part of the ecclesiastical territory which the enemies themselves had, for some time, considered it prudent to leave free from usurpation. Moved by the paternal affection we feel for our beloved Sons, the Cardinals of the Holy Roman Church, and considering them as collaborators in this supreme apostolate of ours, we have today, in our sorrow and grief, decided to declare to them, as the reason of our office demands, and as our own conscience urges, the innermost feelings of our heart, by which we openly and plainly detest and condemn the present state of affairs. For we, although unworthy and undeserving, exercise the power of the Vicar of Christ on earth, and we are the Shepherd of the entire house of Israel, and we now, in reality, experience the lack of that freedom which is entirely necessary for us to govern the Church of God, and to care for its affairs, and we feel that it is our duty to make this declaration, intending to consign it in writing for the knowledge of the entire Catholic world. And indeed, when we testify to the freedom that has been taken from us and unjustly deprived, it cannot be denied that this complaint and declaration lacks foundation: for no one of sound mind can fail to see and acknowledge that the supreme and free power that has been taken from us, by which we freely exercise our authority in public affairs and in the public exchange of correspondence, is a violation of our civil rights.

(1) Vg. 2, 6.

(2) Tob. 13, 2.

[*Latin ed. p. 62*]

62 We are aware of the LETTERS of the Most Holy Father, and since

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we cannot trust the Government itself, which has arrogated this power to itself, we are entirely deprived of a necessary, expedient, and free means of carrying out those affairs which the Vicar of Jesus Christ and the common Father of the Faithful, to whom sons from all places flee, must completely handle and resolve. This observation is certainly confirmed by a recent event, which occurred a few days ago, in which those who were leaving the gates of our residence in the Vatican were subjected to searches, with soldiers of the new Government examining them to see if they were concealing anything under their clothing. Against this, a complaint was made, and to that complaint a response was given, claiming error and offering excuses. But who does not know how easily such events can be fabricated and others invented from them? "Furthermore, a very grave evil threatens the public order in this venerable city: it is not far off that an annual course of studies will be established in the great Lyceum of the City, and that place, which, despite being frequented by nearly a thousand and two hundred young people, has hitherto been an example of tranquility and order, and a refuge for so many Christians and honest parents who sent their sons there to be educated without the danger of corruption, is understood to be falling into a condition that will be very different from its former state, either because of false and erroneous doctrines that are being propagated, or because of the character of those who are chosen to propagate them. Furthermore, it was declared that the laws currently in force in the City, including those laws themselves, would remain intact and inviolable after the City was occupied, and yet, despite these declarations, the registers of the City's parishes are forcibly removed and searched; and it is not obscure that this is done to obtain information that may serve to compile military conscriptions, and for other purposes that are easily understood. In addition to this, insults and injuries, born of a desire for revenge and partisan zeal, are left unpunished, and the same impunity is maintained with regard to the vile and indecent insults with which the faithful cohorts of our soldiers, men of the highest merit, honest men, have been afflicted. Finally, the ordinances and decrees recently issued concerning the property of the Church, which concern the plans of the usurpers, have already quite clearly declared themselves. Indeed, contrary to all these things that have already happened, and to those even worse that are imminent, we—"

[*Latin ed. p. 63*]

LETTERS OF THE MOST HOLY FATHER 63. By our authority, we declare that, as we protest in these letters, we make known to you, our beloved son, and individually to each of the Most Eminent Cardinals, a brief exposition of certain particular matters, and we take this opportunity to prepare for a more ample discourse. In the meantime, we fervently and unceasingly beseech Almighty God, that He may enlighten the minds of our enemies, so that they may cease to bind souls ever more tightly in the snares of ecclesias-

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tical censure, and that they may not stir up in themselves the terrible wrath of the living and seeing God, from whose hand there is no escape. For our part, with steadfast spirit and humility, we implore Divine Majesty, making use of the Immaculate Mother of God and the most blessed Apostles Peter and Paul as intercessors, and we do so with holy confidence that what we ask may be obtained, for the Lord is near to those who are of a sorrowful heart, and He hears all who call upon Him in truth. In the meantime, our beloved son, we invoke peace and joy from our Lord Jesus Christ, and we impart the Apostolic Blessing, sincerely and earnestly, from the depths of our heart.

Given at Rome, at St. Peter's, on the 29th of September, in honor of the Archangel Michael, in the twenty-fifth year of our pontificate.

PIUS PP. IX.

[*Latin ed. p. 64*]

LETTER FROM THE MOST HOLY FATHER. After the petitions from the City were rejected, and after the promises made in the name of King Victor Emmanuel, through a legate sent to Rome, the Pope delivered this letter to the aforementioned King.

Majesty! "The Count of Ponza, from Saint Martin, has delivered to me a letter addressed to Your Majesty; but it is not worthy of a son who professes to love the Catholic faith, and who boasts of royal loyalty. I will not go into the details of the letter, lest I renew the pain that a first reading caused me. I bless God, who has permitted Your Majesty to fill the last period of my life with bitterness. As for the rest, I cannot accede to the requests expressed in your letter, nor can I agree with the principles it contains. I again appeal to God, and I place my cause, which is entirely His, into His hands. I pray Him to grant abundant graces to Your Majesty, so that He may deliver you from every danger, and make you a partaker of the mercies of which you stand in need."

From the Vatican, September 11, 1870.

"Pius PP. IX."

Majesty! VERSION. The letters, which Your Majesty wished to send to me through the Count of Ponza from Saint Martin, have been returned to me; but I have seen that they are in no way worthy of a devoted son who prides himself on professing the Catholic faith and on his royal loyalty. Indeed, I will not examine the letter in detail, lest I feel the pain that I perceived at its first reading. Blessed be God, who has granted Your Majesty to fill the last period of my life with bitterness! Furthermore, I cannot accede to the requests expressed in the letter, nor can I agree with the principles contained therein. I again take refuge in God, and I entrust my cause, which is altogether His, to His hands. I implore Him to grant abundant abundance

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of graces to Your Majesty, that He may protect you from every danger, and make you a partaker of the mercies of which you are in need. From the Vatican, on the 11th of September, 1870.

[*Latin ed. p. 65*]

65. APOSTOLIC LETTERS WHEREBY THE COUNCIL OF TRENT IS POSTPONED TO A MORE APPROPRIATE AND CONVENIENT TIME. PIUS PP. IX. For the future record. "After, by the grace of God, the celebration of the œcumenical Council of Trent was begun in the year immediately preceding, We saw, with the wisdom, virtue, and solicitude of the Fathers, who had come from all parts of the world, most eagerly concurring, that the affairs of this most grave and holy work were proceeding in such a manner that a certain hope shone forth that those fruits, which We most ardently desired, would happily result for the good of religion and for the benefit of the Church of God and of human society from it. And indeed, after four public and solemn sessions had been held, salutary and opportune Constitutions were issued and promulgated by Us, with the same sacred Council approving them, concerning both the cause of faith and ecclesiastical discipline, and others, pertaining to the cause of faith and ecclesiastical discipline, were referred for examination by the Fathers, which could be briefly sanctioned and promulgated by the supreme authority of the teaching Church. We were confident that such labors would have their progress through the common study and zeal of fraternity, and that they could be led to the desired outcome with ease and prosperity; but the sudden sacrilegious invasion of this venerable City, Our See, and of the other regions of Our temporal dominion, by which, against all that is right, the inviolable rights of Our civil and Apostolic authority were violated with incredible perfidy and audacity, has placed Us in such a condition that, with the permission of God, so that His inscrutable judgments may be fulfilled, We are entirely established under hostile domination and power." In this grievous condition of affairs, while We are deprived of the free and expeditious exercise of the supreme authority divinely conferred upon Us, many Acts, vol. YI, cap. LXII §

[*Latin ed. p. 66*]

66 APOSTOLIC LETTERS. We are hindered in various ways, and we clearly understand that, even with the Fathers of the Vatican Council present in this blessed city, with the aforementioned state of affairs persisting, the necessary freedom, security, and tranquility cannot be provided and maintained for the proper handling of matters concerning the Church with Us; and furthermore, the needs of the faithful cannot tolerate so many pastors being absent from their churches amidst such great and well-known calamities and upheavals in Europe; therefore, We, perceiving with great sorrow of mind how the Vatican Council cannot

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continue its course at such a time, after mature deliberation, by Our own authority, We suspend, and declare to be suspended, the celebration of the aforementioned ecumenical Council until a more opportune and convenient time, which this Holy See will declare; We invoke God, the author and judge of His Church, that, once all impediments have been removed, He may restore freedom and peace to His faithful bride without delay.

Furthermore, since the Church is afflicted by ever more grave dangers and evils, it is all the more necessary to insist on supplications and prayers, day and night, to God and to the Father of Our Lord Jesus Christ, the Father of mercies and God of all consolation, We will and command that those things which We have established and decreed in the Apostolic Letters of April 1st of the past year, by which We granted a plenary indulgence to all the Christian faithful on the occasion of the ecumenical Council, remain in full force and effect, according to the manner and reason prescribed in those same letters, as if the celebration of the Council itself were proceeding. We decree this, We declare, We will, We command, notwithstanding any contrary provisions; We declare null and void any action taken by anyone, knowingly or unknowingly, that should attempt to alter these matters.

Therefore, no human being whatsoever may infringe upon this declaration of Our will, this mandate, and this decree, or dare to contradict it with reckless audacity; if anyone should presume to attempt this, let him know that he will incur the wrath of Almighty God and of the Blessed Apostles Peter and Paul.

In order that these present letters may be made known to all those to whom it pertains, We will that copies of these letters, or extracts from them, be affixed to the doors of the Lateran Basilica and the Basilica of the Apostles, as well as to that of Saint Mary Major.

[*Latin ed. p. 67*]

APOSTOLIC LETTERS. 67: "Letters affixed and published in the city shall bind and obligate all and each of those to whom they pertain, just as if they had been personally and individually notified to each of them." Given in Rome, at St. Peter's, under the Fisherman's ring, on the 20th of October, in the twenty-fifth year of Our Pontificate. N. GARD. PARACCIANI CLARELLI. FROM THE HOLY CONGREGATION OF RITES. BERGAMO. CONCERNING THE CONTROVERSY ARISING REGARDING THE HOLY MARTYRS OF BERGAMO, DOMNIUS, DOMNION, AND EUSEBIA. August 20, 1870. SUMMARY OF THE FACTS. In Bergamo, in Italy, there exists a church dedicated to St. Andrew the Apostle, which has existed for a long time outside the walls of the city of Bergamo, since the year 785 of Our Lord. Beneath the central altar, the bodies of the Holy Martyrs Domnius, Domnion, and Eusebia rest, who, according to tradition, suffered martyrdom in Bergamo at the beginning

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of the fourth century, during the persecution of Diocletian and Maximian. The people of Bergamo have always venerated them as martyrs; their names are inscribed in the Roman Martyrology; and the acts of these martyrs were approved by the Holy See under the Pontificates of Sixtus V and Pius VII. Doubts have recently arisen concerning the authenticity of this long-standing tradition. In Volume XII of the most learned work begun by the celebrated scholar Bollandus, entitled "Acta Sanctorum," a commentary is contained, for the nineteenth day of October, which bears this title: "Concerning St. Eusebia, a Virgin, venerated as a martyr..."

[*Latin ed. p. 68*]

In Bergamo, located in Italy. The author of this commentary has endeavored to convince himself that the Saints Domnus, Domnion, and Eusebius are not martyrs, at least raising doubts about the authenticity of the tradition concerning their martyrdom; although he submits the definitive judgment on this matter to the Holy Congregation of Sacred Rites. When this information reached the Bishop of Bergamo, the Archbishop took every care to ensure that those things which had been called into question were restored to their proper light, in accordance with the tradition of the Church of Bergamo: he did this for two reasons, firstly, so that those Saints would not be deprived of the honor of martyrdom, the possession of which had also been recognized by the Holy See; and secondly, so that scandal would not be brought upon the people if knowledge of that commentary were to spread. Therefore, the Archbishop entrusted the matter, which was to be examined first, to the Bergamese priest, Peter Uccelli, a man skilled in archaeological matters, who had already published two works on these martyrs in Bergamo in the years 1850 and 1851, entitled "On the Authenticity of the Bodies and the Relics of the Holy Martyrs Domnus, Domnion, and Eusebius"; and afterwards, having collected documents and writings, he proposed to the Holy Congregation to settle the matter. Following the usual procedure, the Holy Congregation sought the opinion of a consultant expert in archaeological matters, who, praising the writings presented by the aforementioned Bergamese priest in defense of the authenticity of the tradition of martyrdom, declared his opinion in favor of the genuineness of the tradition. On this occasion, it was also officially brought to the attention of the Holy Congregation that certain other works, published with excessive confidence by some learned men of our time, contradict the historical traditions admitted in the Roman Martyrology; a matter on which the most learned Cardinal Baronius and Benedict XIV had labored with great caution, and on which great caution must be exercised in any amendments, the definitive judgment on which belongs to the Holy Congregation. With these things stated, the question under consideration was proposed to the Holy Congregation for resolution. Following the usual procedure, we will present the arguments on both sides. A synopsis of the discussion.

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ARGUMENTS PRESENTED BY THE AUTHOR OF THE COMMENTARY AGAINST THE AUTHENTICITY OF THE TRADITION. The Bollandist, in the introduction to his commentary,

[*Latin ed. p. 69*]

BERGAMO. It is known that, according to Roman laws, corpses were to be buried outside the city walls, and that Theodosius renewed this law against the prevailing custom. However, since the faithful loved to rest near the tombs of martyrs, and as soon as it was permitted, sacred buildings, commonly called Basilicas, were erected around the towns; and all, or almost all, of these were burial places. The very ancient city of Bergomum, enclosed within a narrow circuit of walls, could not lack this type of building. Among such sacred buildings, Basilicas, the Basilica of St. Andrew is to be found. And this sacred building, despite the ravages of time, remained intact in the year 1401, and in that year, a new celebration was instituted for the Basilica, as is recounted by an eyewitness, Castello de Castello, who was the Notary of Bergomum: "In the year 1401, on Sunday, July 24th, in the morning, a *lavellum* [a small opening or aperture] was opened, which was located in the church of St. Andrew, beneath the main altar of said church, by the entire clergy of Bergomum; and in this *lavellum* were found the bodies of three martyrs, namely Domnonius and Domnonia, and Eusebia, both nephews of the aforementioned Domnonius of Bergomum, as appeared from an inscription on a square stone found in said *lavellum*; and I, Castellus, saw these bodies, and read the aforementioned inscription: and this *lavellum* was opened because it was then very dry, so that the trees, vines, and fruits were withering, and after a few days, it rained. And on August 1st of that year, the aforementioned *lavellum* was closed. And on July 27th of that year, two *lavella* were found beneath two altars, located in the bodies of the holy St. Alexander; beneath one of these altars was found the body of the holy Bishop Narnus, and from the tomb of the same St. Orcet, a very clear water flowed; and as all the Bergomenses did, they received a small amount of this water with great solemnity; this altar is on the morning side of the aforementioned church; and beneath the other altar was found the body of St. Viator, Bishop, and this is on the evening side of the aforementioned church. And a great solemnity was celebrated by the entire clergy of Bergomum, and by the majority of the people of Bergomum. And on the following Sunday, July, a solemn Mass was celebrated near the gate of St. Alexander, inside, under the elm tree, and a sermon was preached about the discovery of the remains.

[*Latin ed. p. 70*]

70 BERGAMO. "Concerning the bodies; and it was determined that the said reliquaries (which had been broken, having a single hole made in the said reliquaries, so large that one man could place two arms within) should

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be properly closed, said two holes, so that no part of the said bodies should be left exposed." And this was done because of the extreme drought of water, and so that the Lord God might send rain. And on the day following the said discovery, it rained in the city and elsewhere in the same district, and there was a slight storm, and on the last day of the month, it rained and stormed.

The square stone, of which mention is made in this narrative by Castellus, is inscribed as follows: "HIC REQVIESCVNT IN PACE DOMNIO CVM NEPOTIBVS SVIS EVSEBIA ET DOMNONE DEP. DOM NO AVVS XVII K' AVCVS' EVSEBIA. HII NOVEMB. DOMNIO NON. IAN." Although these words are not carefully written, the Author noted that they must be corrected, according to other copies, so that in the fifth line it should read "Domnio" and not "Domno," and in the seventh line the letter "K'" should be placed before.

Having presented these authentic documents, he said that among the Bergamese themselves, there appeared to be more who doubted whether, at the beginning of the 15th century, their fathers had rightly decided that the true bodies of the martyrs had been discovered by them, as could be gathered from the writings of Finatti, who published the last commentary on these matters.

What, however, are the arguments for doubting, it is easy to discern. And the Author of the commentary in question conjectured as follows: the first argument is that those holy martyrs were completely unknown before that discovery; their names are not found in the Martyrology of Jerome; nor in the Roman Martyrology, nor in the acts of Adonis, Rabani, Wandelberti, Notheri, and Usuardi, nor in other similar collections; similarly, their names are not read in the Bergamese Calendars of the 11th and 12th centuries, previously described by Mario Lupo, Codex diplom.

[*Latin ed. p. 71*]

BERGAMO. Seventy-one souls [are venerated], and the church of Bergamo: no martyrdom, older than that discovery, has ever been found in Bergamo, nor elsewhere. If it is responded that the Bergomates and four others are venerated as martyrs, whose bodies were discovered in the year 1291, and who are not listed in the same calendar, it must be noted that both Muratori and Zannetti denied that they were martyrs; and, as Marius Lupus abundantly and learnedly demonstrated, arguments older than the year 1291 do not suffice. Secondly, the names Domnonius and Domnionia were scarcely, or not at all, in use at the beginning of the fourth century. However, several things must be considered regarding these names, namely, that in a free republic, the term "dominus" was considered odious; but under the rule of the Emperors, it gradually became common, so that friends would address each other with the word "dominus" in greetings, and within the domestic walls, the wife would call her husband, the brother

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his brother, the parents their children, and vice versa, calling each other "domini" for the sake of reverence or love: vestiges of this custom still survive in inscriptions (1). Meanwhile, as the power of the accent increased, the first syllable of the word became, as it were, lengthened, and the syllable immediately following, in turn, became shorter, and soon suppressed: hence the word "Domnus" arose in place of "Dominus." At first, this appellation was common, as is the French word "monsieur" now in use; but gradually, it was converted into a proper name among Christians, so that, at the end of the third century and the beginning of the following, only a few martyrs and Fathers of Nicaea, especially those from the East, were found to be called by their proper names Domnus and Domna. Next, the name Domnio was formed; as Latin literature flourished, it had already taken on the diminutive, or rather, the "muto" form, not only in common names, but also in proper names (2): ve

(1) Cf. *De Phialis Rubricatis*, page 28 and 29; Edm. Le Blant, *Inscriptions Chrétiennes de Gaules*, no. 202, vol. 1, page 279 and following.

(2) In common names, such as *pusio, homuncio, senecio*; in proper names, such as Tyrannio, Dorio, Olympio, Acanthio, Glabrio, Turpio, Assellio, Ephestio, Felicio, Publio, Rufio, Secundio, Communio, Ofellio, Ursio, Quartio, etc. Marini, *Gli Atti e Monumenti de Fratelli Arvali*, page 249 and following.

[*Latin ed. p. 72*]

72. BERGOMEN. The name Domnio, however, is quite rare, and there is no record of any Bishop who attended the Councils and bore this name, nor is it found in collections of ancient inscriptions. Although certain Bishops and a Deacon, named Domnio, are venerated as martyrs on April 11th in Dalmatia, and their acts are not devoid of legendary elements, as noted in the *Acta Sanctorum*, volume 2, page 5, it is not possible to determine their exact age. This name, however, does appear in a certain inscription from Verona, written as follows: DOMNIONI. BENEMERENTI - QUI VIXIT AN. XL MEN. VIII - V IDUS OCT. IULIANO III ET SALUSTIO - coss. (Maffei, *Museum Veronense*, page 310, note 5), but this inscription is not older than the year 353. However, the name Domnone certainly indicates a later origin; for this name is nothing other than "Dominus" (Lord), just as it is known that St. Fulk was called both Fulcus and Fulcon. But such forms differ greatly, and the word "Damno" could not have arisen unless the Latin language had been greatly corrupted. Indeed, among the ancient Romans, the words "pavum" (peacock) and "pavonem" (peacock) and a few other similar names were known. But the name Domno has a different origin. The author of the *Commentaries* conjectured that the name Domnio derives from the accusative "Domnum" or the ablative "Domno," through corruption of the language; but traces of such corrupted names could not be attributed to the beginning of the 5th century. A third ar-

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gument was put forward by the same author, based on the words of the epitaph: "Hic QIJIESCUNT IN PA. B. M. DOMNIO CUM NEPOTIBUS etc.," which should be understood without controversy as follows: "Here rest in peace, Domnio and his relatives," and not as: "Here rest in peace, the blessed martyrs Domnio and his relatives." Furthermore, Edmund Le Blant notes that the complete formula was not found inscribed in Gallus before the year 488, but was very common in the 6th century (*Inscriptions Chrétiennes des Gaules*, preface, page 9). The oldest Roman inscription, "Hic requiescit" (Here rests), was written in the year 396 (*De Rossi, Inscriptiones christianae*, page 59). The words "bonae memoriae" (of good memory) are not found in Roman inscriptions before the year 342. The expression "in pace" (in peace) is the oldest, but "requiescit in pace" (rests in peace) is not found in Rome before the year 401 (*Le Blant, loc. cit.*, page 215, note 501). Therefore,

[*Latin ed. p. 73*]

BERGAMO. It is difficult for an archaeologist to believe that all these words were introduced at different times, and yet appear for the first time in a Bergamo epitaph. Moreover, a similar example of this epitaph exists in Bergamo, in which a certain inscription is found, with these words: "Here RESTS IN PEACE B. M. JOHN." - "LIVED 41 YEARS, 1 MONTH, 22 DAYS" - "Died on the 12th of the month K. D. Ind. HII, under the Emperor JUSTINIAN." For this is, in fact, the very title from which the Bergamenses identified Saint John, the Bishop and martyr, who, according to the testimony of Paul the Deacon and others, flourished at the end of the 7th century, as can be seen in Muratori's *Annales Italiae*, vol. 1, p. 117; Ronchetti, *Memorie*, vol. 1, p. 63; and Ughelli, *Italia Sacra*, vol. 4, col. 413, Venice edition. Furthermore, under the reign of Justinian II, the fourth Indiction in Constantinople occurred in November or December of the year 690; therefore, from the similarity of the writing and other evidence presented, it seems that everything points to the conclusion that Domnonius, Domnona, and Eusebius did not suffer martyrdom under Maximinus Hercules, but lived much later, perhaps in the 7th century. Finally, the author presented a fourth argument, which showed that others had been deceived by a similar error. He recounted that, at the beginning of the 17th century, the inhabitants of Sardinia, having found inscriptions, a large part of which contained the letters B. M., that is, "of good memory" or "of blessed memory," believed that they possessed the cemetery of the blessed martyrs; hence, they unearthed three hundred bodies, of which they gave twenty-five to the people of Piacenza, along with ninety other relics; but the error of the Sardinians was recognized by all, as can be seen in *Acta Sanctorum*, vol. 5, p. 219, and Muratori, *Antiquitates Italicae*, vol. 5, col. 17. Similar things happened to the people of Nola, who, having found some stones, and reading them incorrectly, believed that "SANC M." meant "Saint Mar-

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tyr," as recounted by Remondini in *Della Nolana eccl. Storia*, vol. 1, p. 510, and vol. 3, p. 74; and Ughelli, in the aforementioned place, col. 253, etc. These arguments were presented by the author of the commentary, for those Bergamenses who doubted the authenticity of the tradition; but, furthermore, he presented two other arguments, which were usually put forward in opposition, and he took care to refute them. He noted that, besides the *Castellum*, which was an eyewitness, whose testimony I have recounted above, there were others cited, namely, the testimony of Michael A. Carrariensis, who, being almost a contemporary of the discovery, left these words: "In the year of our redemption 1401, they were found..."

[*Latin ed. p. 74*]

74 BERGAMO. "The bodies of our Saints, of Domnonius and Eusebia, virgin, of the citizens of Bergamo, are in the church of Saint Andrew." Also, the testimony of Mark Anthony Benali, in these words: "In the year of the Incarnation of Christ 1401, on the 24th of July, which was a Sunday, there had preceded and persisted a great drought... the citizens of Bergamo were afflicted in spirit, for not only did the fruits of the earth, suitable for food, wither, but also the trees and vines. When they considered it necessary to invoke divine help, they went to the Bishop of the city of Bergamo, named Francis, who had recently been elected; and when they requested his assistance in this manner, he replied that he had read in a certain ancient document that the bodies of three martyrs were buried in the sacred church of Saint Andrew. Believing that if these were found, it would rain, they decided and organized a series of processions, in which the Bishop led. ... When they had devoutly offered their prayers there, they opened a certain monument, which was located beneath the main altar of the aforementioned church, and there they found the bodies of those three blessed martyrs. A few days later, abundant rain fell from the heavens; and on the first of August of that same year, that monument was closed. ... This we have from a memorial codex of the Castello di Bergamo, and from LC and the last book of Annals of Italy by Michael Carrariensis." With these testimonies recounted by both Michael Carrariensis and Benali, the Author of the commentary noted that Benali flourished around the year 1530, and that neither the Castello nor the Carrariensis, from whom Benalius derived his account, mention the Bishop Francis, nor the ancient document read by him; therefore, it must be said that Benalius rather divined, and indeed, very poorly. That Benalius divined falsely is evident from the fact that Bishop Francis de Lantis was not the Bishop of Bergamo at that time. For, the Author of the commentary noted, Louis Bonet was established as the Bishop of Bergamo in the year 1399; and in the year 1401, he relinquished that episcopal office, having been created Archbishop of Pisa; that see was then vacant, when in the year 1401, on the Sunday of the 24th of July, the discovery of those bodies was made; for history recounts that on the 24th

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of September of the year 1401, a certain Mordinus de Bottanuco was elected Vicarious Capitular, and granted to Blaxius de Cluxiano, Bishop of Beirut, Pontifical privileges.

[*Latin ed. p. 75*]

BERGAMO. 75. Exercitation: Afterwards, only on Sunday, November 26th of the same year, 1401, as Castellus, an eyewitness, testifies, Franciscus de Landis of Pisa (designated Bishop by Apostolic letters on August 4th) entered Bergamo honorifically as Bishop, that is to say, adorned with vestments and weak, making the entrance. From this historical account, the same author concluded that the Clergy, and not the Bishop, had completed this undertaking; and therefore, Benalium had erred in his prediction. Another argument that could be put forward in favor of the Bergomensis tradition concerned the custom of the Church of placing the bodies of holy martyrs beneath the altar. For, from the earliest centuries of the Church, this had been the custom, as St. John writes in Revelation 6:9: "And when he had opened the fifth seal, I saw under the altar the souls of them that were slain for the word of God and for the testimony which they held." Thus, in the Liber Pontificalis (edition of Bianchini, vol. 1, p. 27), it is recorded that St. Felix, Pope I, who suffered martyrdom in the year 284, ordered that Masses be celebrated over the tombs of the martyrs; thus, St. Optatus of Milevum (Against Parmenius, opera, edition of Migne, col. 1605) called the altars built over the tombs of martyrs the seat of the Body and Blood of Christ; and likewise, St. Prudentius sang in the Peristephano de Altari Sepulcrali of St. Hippolytus, and in many other places. However, he conjectured that, if the bodies of the martyrs were not present, it did not follow that the construction of the altar had been abandoned: it had always been the concern of Christians to bury the most sacred remains after death, so that they might be associated with the tombs of the holy martyrs, or placed in their oratories and basilicas. Such a desire of the faithful had overcome both civil and ecclesiastical laws: and the founders of churches had been permitted what was denied to others. Hence, on a certain broken stone, formerly unearthed in Arles, the following was read: "...FOUNDER OF THE TEMPLE, WHERE THE BODY, ADORNED WITH RITUAL BREAD, REMAINS. WITH ETERNAL PEACE. AND ALSO..." Le Blant, loc. cit., vol. 2, p. 273. Therefore, St. Ambrose, after having built the Ambrosian Basilica, chose a place for himself beneath the altar, which he later ceded to the holy Gervasius and Protasus, Epist. 22, n. 13, opera, vol. 3, col. 1023. And in the will of St. Ephraem, the following is written: "If anyone has dared, with deceptive reasons, to place me beneath the altar, may he never see the highest and heavenly altar. For it does not befit a worm rotting in the

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temple and sanctuary of the Lord to be placed there; but neither..."

[*Latin ed. p. 76*]

76. BERGAMO. "In alio loco templi, permitte mihi poni." Verum est, quamquam S. Ephraem haec de se scripsit, non tamen haec omnium sensa sunt; ideoque nec solum defunctos Episcopos potuisse collocari sub altare, sed etiam alios; praesertim vero, templi aedificatores, quibus permitti poterat quod aliis negaretur. Nec est absurda conjectura Marii Mutii, qui, scribendo historiam Bergomensem, Sanctis de quibus agimus, adscripsit aedificationem templi S. Andreae. Haec auctor commentarii de questione praesenti: omittimus quae adversus genuinitatem actorum horum martyrum adiecit, quae eadem fere ratione in dubium posuit EA, QUAE-DEDUXIT IN CONTRARIUM EPISCOPUS BERGOMENSIS. Ecce, verso praefracto, Episcopus initio negavit, templum S. Andreae fuisse coemeteriale, prout ex adverso supponebatur; atque ostendit, unam fuisse Bergomi coemeterialem ecclesiam, eamque fuisse vetustissimam cathedralem S. Alexandri, de qua re consulendus quoque Lupus, praeclarissimum ecclesiae Bergomensis ornamentum, qui suis historicis investigationibus tantum lumen rei archeologicae et canonicae affuderit, Cod. dipl. n. M.'i animadv. 27, et diss. 6 col. 354 de Alexandrino polyandro. Quod si etiam admitteretur, contra factum historicum, templum S. Andreae fuisse coemeteriale, contrarium esse coniiciendum; idest, propterea fideles ibidem sepeliri exoptasse, ut penes martyrum corpora quiescerent: atque ita corporum martyrum existentiam arguendam. Ad documentum Castelli, quod supra recitavi; animadvertit, Auctorem commentarii illud desumpsisse ex Chronica a Muratori edita, quam repetit Finetti: sed mendosam esse, ita ut ex verbo quoque male lecto alium Sanctum Muratorius creaverit, idest, S. Ocerbatum, cum in codice vetustissimo membranaceo in Bibliotheca Bergomensi asservato, ibi legeretur, ipsius sancti oriebatui; et in adducto ab Auctore commentarii documento, cum dicto codice collato, se reperisse viginti tres saltem errores. Adnotavit praeterea epitaphium propositum sic forte accuratius corrigendum: in secunda linea scribendum quoque esse Domno loco Domnio: in tertia linea Domnione loco Domnone: et praeponendam esse litteram K ante Novemb. Praeterea est Episcopus nullum esse, inter notos scriptores, qui de his martyribus dubitaverit: omnia acta SS. Yisita-

[*Latin ed. p. 77*]

BERGAMO. 77 To attest to the veneration of these saints: some doubts have recently been raised by the Priest John Suardi, and these have been refuted by the Priest Uccelli in a work published in Bergamo in the year 1851. Having stated these preliminaries, and following each point that I have previously expounded to the contrary, he observes: it cannot be admitted that those saints were completely unknown before the discovery made in

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the year 1401, for two hypotheses can be made regarding the discovery of things unknown, either that the discovery occurred by chance; or that it was brought about by divine inspiration: but neither of these occurred in this case, but rather the discovery was made by the entire clergy, with great solemnity, for the public good, in order to obtain divine assistance. But besides this observation, which is already sufficient in itself to defend the conjecture against the claim of opposition to tradition, he adduces two documents which demonstrate that those saints were already known in Bergamo before that discovery: namely, an ancient document preserved in the Chapter Archive, in which all the relics placed in the Concatenal Church of St. Vincent are described by a certain Bishop Ambrose, who flourished from the year 1023 to 1057; among these relics, the relic of St. Domnon is listed, that is, Domnonius, as was also the custom to write at that time; an example of this is found in the very document written by Castello, and preserved in the Bergamese Library. Furthermore, in another similar document, preserved in the archive of the Monastery of St. Grata in Bergamo, it is written that Charles the Great "restored the church of St. Andrew the Apostle outside the city walls, where the bodies of three martyrs and citizens of Bergamo lie, namely Domnus, Domnonius, and Eusebia." It is possible that the names of these martyrs are missing in the calendars cited to the contrary, because in the Bergamese church, there were no other calendars besides those which listed the saints pertaining to the cathedral, whose offices were celebrated in the cathedral; but it has been found that a calendar was discovered by Angelo Mazzoleni, a man devoted to critical investigations and of the highest integrity, who noted the following with his own hand from the calendar which is preserved in the archive called "Misericordia": St. Domnone, Domneone, and Eusebia - Unknown in the manuscript martyrology of St. Grata, 1491, p. 113, and in the Missal of Misericordia, p. 123. St. Domneone is written Dom-

[*Latin ed. p. 78*]

78 BERGOMEN. In the Leon manuscript, St. Domnone is mentioned in January; in the Misericordia manuscript missal, St. Doninone is mentioned in July, and in the Misericordia manuscript breviary, he is found on the 17th of August. The question raised by Muratori, which concerns not four martyrs but a single martyr, has a different cause, having nothing in common with the present question; and he, Marius Lupo, has expounded and refuted it extensively and wisely in his own manner. He observed that the conjectures derived from the usage and inflection of their names taught more; and concerning the name Domnone, it must now be admitted, based on the Verona epitaph from the year 363, that another Domnone is venerated in Dalmatia, whatever may be said to the contrary; indeed, it should also be added that in Rome, in the Patriarchal Basilica of the Lateran, one of the Domnone is venerated, along with the office of the common

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martyrs. Furthermore, St. Jerome directed his commentaries on the books of Paralipomenon to a certain Domnone. But the name Domnonis, which, as a supposed indication of novelty, was presented as evidence to the contrary, is clearly read in this epitaph: D. M. - VLVLO. DOMNONI - QUI. VIX. ANIS XXX - AURE. CERALIS - FRUM. LEG. ADR. IL - B. M. F. This epitaph was seen by chance in Rome in 1867 by President Uccelli during excavations made near the Baths of Caracalla, by the engineer Giovanni Rapt. Guidi. And this epitaph (which was found in a place where, it is believed, there were the gardens of Cincinnati, and which were converted into public gardens by G. Cesano) was noted by the archaeologist as follows: "VIVIO DOMNONI, qui vixit annos XXX, Aurelius Cerealis Frumentariae legionis Adrianae secundae bene merenti fecit." From this, he concluded that if Domnone existed in Rome during the time of Hadrian, they could also have existed during the time of Maxentius, during which time, it is said, the martyrs, of whom we are speaking, suffered martyrdom; and thus, all the linguistic conjectures presented to the contrary are refuted by this very fact; especially since Bergomates were a Roman colony from the Voltinia tribe. Similar observations were made by the Bishop regarding the entire epitaph, as if it were unbelievable that all the classical epitaphic expressions, gradually introduced, could be found together in the epitaph of which we are speaking at the beginning of the 4th century. He noted, among other things, that the author of the commentary derived his rules in this matter primarily from the archaeologist Le Blant, who wrote a work on Gallic inscriptions; and that these same rules easily admit of exceptions, especially when dealing with matters...

[*Latin ed. p. 79*]

BERGAMO. 79. In Italy, and not without contradiction, that epitaph is said to belong to the seventh century, although, as the author of the commentary pointed out, by that century the Greek diminutive form in "io" had already ceased to be used. Therefore, instead of "Domnonis" and "Domnionis," the names "Domui" and "Domnini" should be found. Furthermore, he asserted that there were conjectures suggesting that the stone was inscribed in the fourth century, when, after the Edict of Milan, the bodies of martyrs may have been hidden in the same ark, with each day of deposition carefully designated, according to the precept of St. Cyprian in his letter 37 to the Clergy: "Indeed, and the days" by which they departed are noted, "so that we may celebrate their commemorations" among the memories of the martyrs. The fact that the stone belonged to that time is also suggested by the beautiful form of the Roman letters, of which he gave an example, and it cannot be admitted that our inscription was taken from the inscription presented by St. John; since that inscription has never existed, except in the mind of a certain Brother Celestine. Likewise, those things adduced on the contrary are empty, as the inhabitants of

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Sardinia and the people of Nola were deceived by a similar error in the seventeenth century; for it is enough to read the accounts of these things to immediately see that such examples have nothing in common with our subject. Furthermore, the testimony of Benalius, referring to the writings of both Castelli and Carrariensis, is also infirm; for he observed that the history described by Carrariensis no longer exists in the present, and therefore cannot be affirmed; nor can Carrariensis be said to have spoken of Bishop Francis and of the ancient document read by him. What Benalius divined cannot be affirmed: for, although history teaches that the See of Bergamo was vacant on July 24, 1401, history also teaches that on August 4 of the same year, Francis of Lantis was appointed Bishop by apostolic letters; such an authentic appointment cannot be affirmed to have been made unexpectedly, since Francis, who was already a Bishop of a neighboring diocese, would not be unaware of the matter concerning his transfer; nor can it be affirmed that the Chapter and Clergy of Bergamo were also unaware of this; especially considering the circumstances of that time, when the canonical election or appointment by the Chapters had not yet been completely abolished.

[*Latin ed. p. 80*]

80. BERGAMO. Considering the circumstances, which seem quite plausible, let us see whether the words of Benali contradict historical facts: When it was decided to invoke divine assistance, they went to the city's Bishop, named Francis, who had been RECENTLY ELECTED. Upon being asked to intercede, he himself replied that he had read in an ancient document, buried long ago, that the bodies of three martyrs were located in the sacred chapel of Saint Andrew. He then offered to lead the way. The elected Bishop could undertake this task, with the consent of the Chapter, since the diocesan administration was not yet in operation. Therefore, it cannot be said that Benali divined anything; much less that he divined poorly. Rather, his writings contain indications of historical truth. However, noting other errors in the history of Bergamo, and observing that the author of the commentary confused the temple of Saint Alexander with the temple of Saint Andrew, I noted that a similar event occurred at about the same time in Brescia, as recounted by Biragus in the *Chronica Daliana*, page 17, note 4: "When Anatolius died in Brescia during the terrors of the Neronian persecution, he was secretly buried, so that his tomb remained uncertain to many. Nevertheless, there were certain monuments, especially old catalogs, which indicated that he was buried near the Basilica on Mount Saint Florian. Finally, in the year 1472, Bishop Dominic of Brescia, relying on these, discovered the remains and transferred them to the cathedral." It is, however, incorrect to assert that the Saints about whom we are speaking could have been hidden under the altar, perhaps by those who were extracting materials from the temple of Saint Andrew. Such assertions are

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simple and lack any foundation, since it has always been the custom of the Church to bury only martyrs under the altar, and it is very rare, if there are any examples (and none were presented to the contrary), of any other ecclesiastical person of distinguished sanctity being buried under the altar. In our case, all the Saints are laypersons, and even a woman. Moreover, these bodies were hidden within the very altar, in two marble recesses. The Bishop then proceeded to refute the assertions made to the contrary regarding the authenticity of the acts of the martyrdom, from which we will refrain from going into further detail.

OPINION OF THE CONSULTOR. The consultant clearly admits that we have argued successfully for the authenticity of the tradition, and, especially from this...

[*Latin ed. p. 81*]

BERGOMEN. He considered it genuine, believing that accounts of the martyrdom existed, which he thought should be examined by a writer of the fifth or sixth century; and that they possessed all the hallmarks of historical truth, if certain additions, made more out of piety, were to be disregarded. With these premises established, and with the documents indicated in the preceding sections, which signified the preservation of tradition and cult up to our time, he concluded that such a tradition could not be destroyed in our time by conjectures hastily gleaned. After these and other arguments were presented extensively and learnedly on both sides, the matter was debated in the Holy Congregation concerning the doubt: "Do the arguments presented by Father De Buck prove valid in this case?"

RESOLUTION. The Holy Congregation of Sacred Rites, after deliberations held on August 20, 1870, decided to respond: "The arguments presented by Father De Buck against the tradition concerning the Holy Martyrs in question do not prove valid."

Having reported this to the Most Holy Father, since it appeared that other scholars of ecclesiastical history or sacred archaeology were also inclined to write and speculate too readily against such historical traditions, the Most Holy Father ordered that the decree which follows be promulgated.

FROM WHICH ONE MAY GATHER:

I. Historical traditions of churches, especially if they have been recognized by the Holy See, should not be fruitlessly challenged or brought into doubt by general conjectures derived from archaeological investigations.

II. The presumption of the antiquity of a tradition should be considered so valid in law and in merit that it should not be considered destroyed, unless arguments are presented whose force cannot be denied.

III. Indeed, according to the principles of logic, even forceful contrary

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arguments cannot destroy the entire extent and breadth of a tradition challenged; but only destroy it to the extent that they demonstrate it to be false or in need of correction.

IV. In such critical investigations, the same wise rules are to be applied as are stated in the Acts, volume VI, section LXII, 6.

[*Latin ed. p. 82*]

BERGAMO. The Roman laws established the rights and possessions of property; from which principle derives: the condition of the possessor is better. V. Therefore, in this matter, it would not have been necessary to seek new arguments to support the tradition of the Bergamo martyrs; but it would have been sufficient, and indeed more than sufficient, to refute the opposing arguments, either through simple negation or through probable hypotheses. VJ. Indeed, the arguments presented in this matter against the authenticity of the tradition, although expounded with erudition, appeared so weak that no hypotheses were needed to undermine them (1). (1) It often happens that learned men persuade themselves of something according to their own way of thinking: and, because of their great learning, in which they are constantly immersed, they easily accumulate arguments with which they seem to be able to demonstrate what they have asserted. Nevertheless, when the arguments presented are to be examined according to the rules of logic, they are often found to be lacking. For learning, which is the work of memory and diligence, does not always proceed at the same pace as sound judgment and the correct estimation of things, which are the work of understanding. Furthermore, the arguments presented in this matter against the authenticity of the tradition, if I am not mistaken, do not require probable hypotheses to be made in the contrary sense in order to be refuted; but they seem to be able to be repelled by simple negation. Indeed, the first argument was negative: that is, that the names of the martyrs about whom we are speaking were not found in those calendars which Father De Buck was able to indicate. This negative argument, if logically expounded, would consist of these propositions: Those martyrs, if they were such, should have been found inscribed in those calendars; but they are not inscribed in those calendars; therefore, they were not martyrs, or they were not recognized as martyrs in the 11th and 12th centuries. In this argument, the key is to deny the major premise, and therefore the consequent and the conclusion, without any hope of proving the contrary. The second argument, that the names Domnonis and Domnionis were scarcely, or not at all, in use at the beginning of the 4th century, is less convincing than the first, and would be logically expounded as follows: If those names were in use at the beginning of the 4th century, they were certainly very rare; but these names are not found in Bergamo; therefore, the names Domno and Domnio are fictitious names of Bergamo. In this second argument, it is sufficient to deny the minor premise, and therefore the consequent

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and the conclusion, without any hope of proving the contrary. The third argument, that the stone inscription was written in classical words, which were not all in use at the beginning of the 4th century, would be logically expounded as follows: Those words, when put together, are not found in use at the beginning of the 4th century; but what was not in use at that time could not have been on the Bergamo stone; therefore, the stone is later; therefore, it is false. At least the consequent and its conclusion are denied, without any hope of proving the contrary. The fourth argument, that the initial letters B and M signify "Bonae Memoriae" and not "Beati Martyres," would be logically expounded as follows: The letters B and M inscribed on tombstones signify...

[*Latin ed. p. 83*]

83. BERGAMO. DECREE GENERAL CONCERNING THOSE WHO CULTIVATE THE HISTORY OF THE SAINTS, THE HOLY CHURCH, WHICH HOLDS A PLACE OF RECOGNITION AND IS SACRED, AND THE SACRED ARCHAEOLOGY, APPROVED FOR PUBLIC CULT. "The Reverend Father Victor De Buck, of the Society of Jesus, has published a certain commentary on Saint Eusebia, a virgin and martyr from Bergamo, in the twelfth volume of the Bollandine Collection of Acts of the Saints, for the day of October 29th. In this commentary, he has presented many arguments, by which he attempted to demonstrate the beginning of the martyrdom, not only of the aforementioned Saint Eusebia, but also of Saints Domnus and Domnion, and other martyrs of Bergamo. Since the aforementioned Saints Eusebia, Domnus, and Domnion are listed among the less principal patrons of the city, and are honored by their fellow citizens with a notable sense of devotion and piety, in order to avert the scandal that this opinion would cause among the faithful, especially in the city of Bergamo, the Reverend Monsignor Peter Aloysius Speranza, Bishop of Bergamo, has, with due consideration, requested that the Congregation of Sacred Rites be informed, as is customary, of the good or blessed memory [of these saints]: but in the stone of which we are speaking, these words are inscribed: therefore, it signifies the good or blessed memory; therefore, from these words, martyrs are not indicated. The consequence and the first consequence are denied; and it will be impossible for the one who contradicts to prove the contrary, unless he proves by perfect induction that these initial letters have always signified "good or blessed memory" in sepulchral stones. The second consequence can be conceded, considered in the abstract. And thus, the arguments would vanish with a simple negation. Furthermore, if the most learned Father De Buck had not proposed to assist those who, if any, have doubted the origin of the tradition, but rather to defend the tradition, I am certain that he could have done so so splendidly that he would have eliminated any shadow of doubt. To me, who delight in archaeological investigations, whatever I may lack

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in experience, two facts are of great importance, setting aside all others, which support the origin of the tradition: first, that these blessed bodies have been kept and hidden in a sacred manner under the altar of the Eucharist from time immemorial. Second, the account of the martyrdom, which, at least in substance, could not seriously be denied by a man who is somewhat versed in archaeological matters, having been written many centuries before the discovery of the blessed bodies.

[*Latin ed. p. 84*]

84. GENERAL DECREE. He earnestly implored that she herself undertake the examination of this matter, and decide what should be thought concerning the commentary of this Bollandian writer. Therefore, with the aforementioned Reverend Bishop present, His Eminence and Reverend Cardinal Charles Sacconi, designated as the Promoter of this Cause, in the ordinary meetings held today at the Vatican, proposed the following question for discussion: "Do the arguments presented by Father de Buck prove valid in this case?" Furthermore, the Most Reverend Fathers entrusted with the safeguarding of sacred rites, although aware of the great benefit that the great Bollandian Collection has brought to the Catholic Church by providing responses against the heterodox concerning the worship of the Saints; nevertheless, after most carefully considering all the documents abundantly presented to elucidate this Cause, they decreed the following judgment: "The arguments presented by Father de Buck against the tradition concerning the Saints and Martyrs in question, do not prove valid." August 20, 1870.

After a report on the aforementioned matters was made to His Holiness, our most holy Pope Pius IX, by the undersigned Secretary of the same Sacred Congregation, His Holiness deigned to ratify and confirm the judgment of the Sacred Congregation. Moreover, He ordered that all those engaged in the study of ecclesiastical history and sacred archaeology be reminded that, whenever the matter concerns Saints or Blesseds who, with the approval of the Holy See, are in the possession of public ecclesiastical worship, they should proceed with caution, and keep in mind the rules on this matter, as transmitted by Benedict XIV in the Apostolic Letters concerning the new edition of the Roman Martyrology, n. 2, 18: *De Servorum Dei Beatificatione et Canonizatione*, Book IV, Part II, Chapter XVII, n. 9 and 10. Likewise, Book IV, Part II, Chapter XIII, n. 7 and 8, where the Roman Breviary is discussed (1). September 1st of the same year.

C. Bishop of Portuense and Rufinae, CARDINAL PATRIZI, S.R.C.

Dominicus Bartolini, S.R.C., Prefect of the Place of the Seal, Secretary.

(1) See Appendix I.

[*Latin ed. p. 85*]

8S, CONGREGATIONE CONCILII TRIDENT, INTERPRETUM. ORDI-

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NIS SUBDIACONATUS ET DISPENSATIONIS. Die 13 Augusti 1870. Expositio Factorum.

Joachim Lusitanus, natus ex patre divite et insigni in publico munere, ab ineunte aetate, propter studium, ab parentibus suis longe a domo patricia in urbem A missus est.

Attingens pubertatem, coepit experiri vexationes patris et matris, qui in mente habebant eum, vellet nollet, ad ecclesiasticam militiam per fas et per nefas adhibere, et qui eo molestias addiderunt, ut, non nisi coactus et cum patre adstante, in quem oculos nec audebat convertisse quin contremisceret, Joachim minores ordines suscepit.

Maior autem factus et tempore properante quo ad Subdiaconatum conscendere debebat, saevitia parentum in dies aucta sunt, et ita eum premebant, ut, animo aegro et terrore comprehensus, ad festum advenientem, in patriam remearet.

Nam, reluctante et protestante se numquam maiores ordines suscepturum, pater et mater, minis suspensionis alimentorum et verberibus, eum coacta sunt, ut voluntas eius tam firma tandem aliquando ad vota eorum cederet.

Ad incitas, laicum etiam gubernium adivit, ut inter milites saltem recenseri valeret; sed frustra: deficiente consensu parentum, miles fieri non potuit.

Itaque, sacrae ordinationis die properante, publicationes locum habuerunt non in urbe ubi pater commorabatur, quia in eo loco vexationes parentum erga filium illum omnibus innotuerant, sed in urbe B, ubi fortuito natus erat Joachim; qui tandem, invitus et reluctans, vi et metu compulsus, urbem C una cum aliis Ordinandis petere debuit, eum comitante patris famulo fidelissimo, cuius praesentia, sicut et illa patris, eum premebat.

In itinere, pluries et coram pluribus, aperte professus est.

[*Latin ed. p. 86*]

86. THE ORDINATION TO THE SUBDIACONATE: He had protested that he did not wish to receive the order of Subdeacon, and had also declared that he would never become a priest. However, in the city of C, he attempted to obtain a false certificate of ordination, so that he might deceive his father and preserve his own freedom. But all things turned out badly for him, and, being utterly disheartened, as the hour of ordination approached, he repeatedly put on and took off the sacred vestments, giving clear signs that he did not intend to dedicate himself to the sacred ministry in the presence of those present. Finally, being forced to the altar, he received the order of Subdeacon without any reverence, an order which he never exercised afterwards; indeed, he began to confirm his reluctance with subsequent actions, never engaging in theological studies, nor wearing clerical garments, nor exercising the sacred ministry. After this ordination, having

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satisfied his father, he went to the city of D at his father's expense, to devote himself to the study of law, and he applied himself to these studies so diligently that he deservedly gained the reputation of an excellent jurist, and accumulated considerable wealth. He then presented a petition to the Episcopal Curia of the city of A, requesting that proceedings be initiated concerning the nullity of the order of Subdeacon, presenting articles on which witnesses should be questioned, and providing witnesses. The Defendant of the order opposed the petition with a counter-claim, against which the Plaintiff immediately presented a repetition, and thus a formal examination began in the Episcopal Curia, with both the Plaintiff and the Defendant present. However, the Episcopal Curia did not issue any judgment. Then, Joachim sent a copy of the proceedings to the Sacred Congregation for the Discipline of the Clergy, requesting that the order of Subdeacon conferred upon him be declared invalid, or, if not, that a dispensation be granted to him from the vow of chastity and from the other obligations of the order of Subdeacon. The Sacred Congregation wrote to the Bishop for information and a vote, and the Bishop's Delegate for the governance of the diocese issued a favorable opinion to Joachim. However, since a judgment had not been rendered, the Sacred Congregation again requested the Bishop to give his opinion on this matter. Then, the Vicar General considered it necessary to resolve the question with these words: "Therefore, it seems clear that the Plaintiff, although unwilling, cannot be said to be entirely and simply unwilling, but only in a certain sense, just as a merchant is said to be unwilling and forced when he sends his goods out to sea during a storm, so that he may preserve his life."

[*Latin ed. p. 87*]

AND OF DISPENSATION. 87 » consult. However, if the order was not entirely and fully granted to the Actor, it must be considered valid (1). » With this opinion accepted, and the decree placed on file, the disputed case is presented under the following questions, with the allegation from the part of Joachim, and the observations of the Defender of the Faith ex officio. A synopsis of the discussion. THE ARGUMENTS OF THE ACTOR. From those things which the Defender of the Actor has presented extensively, we consider only some, and those the most important. Before addressing the question of the validity of the received order, he noted certain things concerning the regularity of the process. He stated at the beginning that he did not presume that the Actor, imbued with good morals, would have wished to send an irregular process to Rome, where it would have been easy to reveal any nullity, if one existed. And even less did he presume that the Sacred Congregation would have issued the decree, placed on file, when the regularity of the process could have been questioned so many times. However, the process itself contained nothing that could be faulted, since all the prescriptions of the Benedictine Constitution, Si datam, had

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been observed; this Constitution, indeed, being presented solely for causes of nullity of religious profession, could only be applied to cases of nullity of the order by way of abundance. In the case, the Actor's insistence preceded the presentation of the articles by the witnesses, and the witnesses themselves were judicially summoned, both because of their age and because of their condition, and, after taking an oath, were questioned before the Vicar.) This opinion, issued by the Vicar General, when considered juridically, was very inappropriate: it was rather a learned dissertation, in which passages from Holy Scripture were cited, some psychological knowledge was presented, and certain ancient historical facts about the Saints were mentioned, who, unwilling and fearing, had begun the sacred order. But it did not delve into the facts and the law, which could be deduced most accurately from the process itself, and which would lead to a judgment in one way and no other. Therefore, the opinion was rather a vague opinion of the Vicar General, than a formal judgment filled with its own reasons. However, the process in this case was very regular; nevertheless, an examination of Joachim's parents was desired. Furthermore, the same process had not been transmitted to the Sacred Congregation by the Curia in an authentic form: that is, it was neither signed nor sealed; so that the question arose whether the process was authentic or not, and whether it had been transmitted by the episcopal Curia.

[*Latin ed. p. 88*]

88. The General Advocate and Defender of the Order, by virtue of his office, who was also present at the examination, as prescribed by the Benedictine Constitution, presented his arguments against the nullity. It is not relevant that the Defender of the Order did not provide answers to the questions, or that the Accuser was absent from the examination; for there is nothing in that Constitution which states that, if the Defender, by virtue of his office, fails to provide answers, the process is vitiated; rather, it indicates that he had nothing to add to the questions posed by the Accuser. Furthermore, the presence of the Accuser at the examination was never, nor in any way, prohibited. The examination of the parents was therefore postponed because there was an abundance of evidence of nullity. The case was brought before the Holy Congregation of the Council as a first instance, not as an appeal, because the Diocesan Court never wished to render a judgment, and for this reason, the proceedings were sent to the Holy Congregation, not to the Episcopal Court. After these matters, presenting a twofold argument concerning the first question, addressing a theological question in the preceding chapter, he demonstrated that, due to a lack of will, neither the grace could be obtained, nor could the character be imprinted in the one being ordained. And at this point, he strongly emphasized that the will must always be considered, especially in certain sacraments, the foundation and basis of which is the will of the giver and

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the receiver, even though they confer grace by the very act performed. In the sacred orders, in addition to the sensible sign, that is, the matter and form, the intention of the ordaining and the one being ordained is required, so that the invisible grace may be communicated through the visible sign. Thus, as St. Thomas states in the *Summa*, part 3, question 68, article 3, and as the Florentine Council states in the Decree of Eugene IV to the Armenians. This principle is confirmed in the Decretals, book 3, title 42, chapter 2, on Baptism, where it is written: "Therefore, the sacramental character is imprinted by the operation, when it does not find an obstacle from a contrary will." Therefore, an actual, or at least a virtual, will is necessary for the validity of the received order. In the matter, all the testimonies of the witnesses converged to demonstrate that there was an absence of both actual and virtual will. Nor did the journey from city to city undertaken to receive the order provide any obstacle, as if from this journey some will to receive the order would arise. On the contrary, a contrary will was undoubtedly present, namely, the neglect of studies in Sacred Theology, and the attempt to enter the military in order to avoid ordination.

[*Latin ed. p. 89*]

AND OF DISPENSATION. 89. He attempted to obtain a false title within a certain order, and during his journey, he consistently expressed his aversion to ordination (as testified by all those who traveled with him and petitioned the city of C to receive orders themselves), and the journey itself was undertaken and completed under the pressure of great fear, accompanied by the most faithful and terrifying servant of the Father. It is also established that he repeatedly put on and took off his garments as the candidates approached the Bishop, that he showed no reverence in receiving the orders, that he never afterward exercised the priesthood, nor wore sacred vestments. These accompanying and subsequent circumstances, when considered together, demonstrate a lack of both actual and volitional will; and without this will, neither grace nor the character of Joachin was received (1). However, setting aside the question of the validity of the ordination in itself, namely, whether one who is compelled by fear to receive holy orders does indeed receive grace and the character; I say, setting aside this question, the Defender has raised another point, namely, whether a Subdeacon ordained by force and under great duress, whatever may be said about the validity of the order, is bound by the obligations of the Subdiaconate according to ecclesiastical law. And again, the Orator recalled what the authorities teach about great fear and coercion, which they call "causative," noting that it is improper to doubt the existence of great fear in this case: for all the witnesses testified with one voice about threats, the Father's indignation, acts of cruelty, the threat of being deprived of his inheritance and sustenance, beatings, and the pressure of the servant, who represented the Father even during the act of ordination; and to these were

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added protests.

(1) Let the Readers note that they should not seek accurate theological doctrine among the Canonists, and much less among the Lawyers: but they should seek it among learned theologians. For example, Canonists often speak of the minor orders as if they were sacraments, which confer grace *ex opere operato* and imprint a character. For example, Cardinal De Luca, renowned in canonical jurisprudence, when dealing with questions concerning the minor orders, often mentions the character. Canonists are usually concerned with the analogy of the sacred orders, in order to deduce laws: and since Holy Orders imprint a character and confer grace *ex opere operato*, whatever can be understood in some sense under the name of Holy Orders according to the rites of the Church, it easily falls under the same consideration, and is considered in the same way.

[*Latin ed. p. 90*]

90. Concerning the reception into the order of Subdiaconate, which precedes the sacred ordination, about which witnesses also testified, it is true that a grave fear of violence was present, and that force vitiates an act. Therefore, it cannot be doubted that the order of Subdiaconate, received under such fear, is at least invalid with regard to the obligations attached to the order. However, even if a grave fear were not proven sufficiently, it is beyond doubt that a reverential fear at least intervened, as can be seen from the entire process. And this reverential fear cannot be extinguished by the fact that Joachim's fear was later overcome. For it is clear that all means were employed to influence Joachim, and that he was so timid that he dared not even look his father in the eyes, lest he should be reminded. With these things established, the Advocate observed that, in canonical jurisprudence, it has been sufficiently established that the obligations attached to the Subdiaconate are not extinguished if a Subdeacon has been ordained under duress or by grave fear: for such obligations, especially continence, whether arising from an implicit vow or from ecclesiastical law, are something external to the order of Subdiaconate, and such causes are usually equated with similar causes in the law concerning Marriage and Religious Profession, as Barbosa, Vot. decis. 77, and Pitonius, Discept. eccl. 177, state, in which, citing many authorities, he wrote: "If ordination is received by force and fear, there is no doubt that, even if the character is imprinted, the person so ordained is never bound by the vow of continence as if it were freely taken and valid." Therefore, the only reason for doubting is the circumstance of the fact. The Advocate noted that this doctrine is also consistent with the judgment of the Holy See in Valencia concerning the Order of Subdiaconate before Caesar de Grassi, reported among the decisions, divers. 561, p. 1, in which it was concluded that "a person ordained by duress is not bound by law to continence, so that it is not necessary to petition the Supreme Pontiff for a dispensation." Similarly, in the Cause

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of the Order of Subdiaconate of Leodium, before Emerix the Younger, decis. 870. Furthermore, according to the Sacred Congregation of Councils, the same doctrine was confirmed in Namur, concerning a dispensation, which, after being proposed on December 16, 1724, was dismissed with a negative response: for the following questions were proposed: "I. Is the Advocate bound by the vow of continence in this case? And the answer was affirmative: II. Is there a place for a dispensation in this case?"

[*Latin ed. p. 91*]

AND OF DISPENSATION. 91. The following cases arose: to I. Affirmative: to II. Negative. For it had not been demonstrated that there was grave coercion. The same case was presented again on November 19, 1729, with several extrajudicial witnesses brought forward, and the formula of doubt was proposed: "Whether and in what part should one stand or recede from the decisions in this case?" The response was: "Delay, and examine the witnesses properly, and write to both the Ordinary of Leodiensis and the Ordinary of Namurcensi, according to the instruction (1)." Finally, the case presented on March 10, 1731, resulted in the response: "Prior to any departure from the decisions, one is not bound by the vow of continence." Similarly, in the case of Gratianopoli, presented before the Sacred Congregation on July 3, 1762; in that case, only the doubt regarding the dispensation was proposed, in these words: "Whether there is a place for dispensation from the vow of continence in this case?" However, since it was established that there was grave paternal coercion by which the petitioner had accepted the Subdiaconate, the Sacred Congregation responded: "It is established that the vow of continence is null." This concerns the first doubt regarding the nullity. Regarding the second point, if a person is proceeding to a higher order, whenever the nullity of the received order is rejected from either of the aforementioned grounds, the grace of dispensation cannot be denied, because: 1° he is outstanding in religion and good morals; 2° because he is still in his youthful years, in which passions are fervent; 3° because God favors voluntary sacrifices, not coerced ones; 4° because illegitimacy.

(1) The instruction, which was written to the Bishop of Namurcensi, contained the following: "That the depositions of witnesses, as stated in their relation, should be received after a prior formal examination, and that, after transmitting them, a report should be made regarding the time when the aforementioned petitioner was provided with the Canonry, whether the priesthood was attached to that Canonry, and whether, from the day the order was received until the present day, he has ministered in the aforementioned Subdiaconate order." The instruction addressed to the Bishop of Leodiensis contained the following: "That, after hearing from the Suffragan Bishop of Thermopoli, who conferred the order of Subdiaconate upon the aforementioned petitioner, a report should be made regarding the alleged violence inflicted upon him in the reception of said order, whether he

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knows anything about this matter, or whether it has come to his ears, both at that time and in the present; and finally, whether, throughout the entire time that the aforementioned petitioner remained in the diocese of Leodiensis, he ever ministered in the received order of Subdiaconate." The reports received from both Ordinaries stated that the petitioner had obtained a Canonry in the year 1718 through the resignation of another, and that it was not sufficiently established whether the priesthood was attached to that Canonry. The examination of two surviving witnesses was presented; and again, both Bishops petitioned the Sacred Congregation, so that the petitioner might be freed from such a bond of continence.

[*Latin ed. p. 92*]

92. The publications concerning the Subdiaconate having taken place outside the city, in the place where the father's dwelling was located, and in the place where he himself was born: 5° because, according to the teaching of Benedict XIV regarding the Diocesan Synod, it is doubtful whether the Subdiaconate possesses the nature, power, and excellence of a sacrament; 6° because only in the eleventh century did the Subdiaconate begin to be counted among the higher orders; 7° because the obligation of continence neither belongs to the essence of the order nor descends from divine law, but only from the implicit vow made during the act of Ordination, or from the custom of the Church. The most just and reasonable reason for seeking dispensation, it was held, lies in the fact that at least there is doubt about the validity of the received order and the vow or law of continence.

DEFENSOR'S OBSERVATIONS FROM HIS OFFICE. He first pointed out that this concerned a very serious matter, and that it was extremely necessary to examine whether the force and validity of the legal proceedings were proven. Furthermore, in this case, there was great doubt about the existence and authenticity of the proceedings, because, according to a broad decree of the Sacred Congregation, the Bishop, for the purpose of information and opinion, who reports on the antecedents, the concurrent events, and the subsequent events of the reception of the order, should provide the diocese's governor with information, and in that information, nothing about the proceedings should be omitted. The presentation of documents is required from the judge from whom, to the judge to whom they are desired; and if the procedural acts are not produced by the judge from whom, the judge to whom cannot either revoke or confirm the judgment. Furthermore, the examination of witnesses took place before the prosecutor, and the defender of the sacred order did not provide any interrogatories, nor did he affix his signature to the proceedings. Regarding the merits of the case, the prosecutor asserted that the statements of the witnesses contradicted each other; that the types of punishments that the father threatened were not explained; that the threats either did not exist at all or were minor; that, even if accompanied by a servant, he could, if he wished, have fled the

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ordination, given his fervent nature; and that there was a lack of reverence in the act of receiving the order itself; for if, despite these circumstances, he received the order, he received it because he wanted to. It was also alleged that Joachim had protested, claiming that he was becoming a Subdeacon because of his parents' threats, but that he had never acted as a Subdeacon; this, however, he rejected, stating that the Sacred Congregation had admitted validity in more severe cases, especially in the case of Pennen.

[*Latin ed. p. 93*]

AND OF DISPENSATION. 93 Regarding the diaconate and dispensation of July 28, 1866 (1). In this case, the Holy Congregation maintained the validity [of the order], although antecedent, concomitant, and subsequent circumstances demonstrated the absence of free will, due to a grave fear unjustly instilled. All the more so should validity be upheld in this case, since such a grave fear was not demonstrated. It was noted that three things must concur for a fear to be considered grave: 1° that the evil feared must truly be grave; 2° that it must be present; 3° that it must be unavoidable. If any one of these extremes is lacking, the fear cannot be considered grave. In this case, none of these extremes were found: for it is common for parents to threaten their children with the deprivation of necessities, in order to induce them to choose a more advantageous state of life, and these threats are ultimately resolved into paternal exhortations. In fact, the necessities were never denied after the acceptance of the subdiaconate, and this is of great importance, since, according to the testimony of the Accused himself, everything that was done to him was not as a subdeacon only, but as a priest. Finally, Joachim always had the opportunity to appeal to the Bishop, so that he could restrain the persecution of his parents. Since he did not do so, it must be held that he consented to the reception of the order. Having resolved the first doubt with these arguments, he vehemently argued that the dispensation should not be granted, insisting in particular that this rule should not be relaxed except for the public good and for public reasons. After presenting these and other arguments at length, the proposed questions were to be resolved: Question I. "Does the nullity of the order consist in this, so that Joachim is not bound to the vow of chastity and to the other obligations attached to the order of the Subdiaconate in this case?" And, Question II. "Should the Most Holy [authority] be consulted regarding a dispensation in this case?" RESOLUTION. The Holy Congregation of the Council, after discussing the case in the meetings held on August 13, 1870, decided to respond: To I. It will be provided in the second [part]. To II. Affirmative. (1) I have described this case in Volume II, page 443.

[*Latin ed. p. 94*]

94. CONCERNING THE ORDER OF THE SUBDIACONATE AND DISPENSATIONS. From what follows, it may be gathered: I. The causes which

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are alleged to render sacred orders received under duress and fear invalid can be and indeed are considered under two aspects: a) with regard to the validity of the order itself; b) with regard to the obligations which, according to ecclesiastical law, are attached to each order. II. It is much more difficult to prove, in an external forum, the invalidity of the order itself; since it must be demonstrated that there was a positive will actively opposing the sacred ordination. III. It is easier to demonstrate the invalidity of the obligations which, according to ecclesiastical law, are attached to the order. IV. However, such a demonstration is of the same kind as that required in cases of marriages or religious professions entered into under duress and fear. V. If coercion is proven, which may have been directed at a man of constant mind or at a young person of constant mind, and which was directly aimed at the reception of the order, then the obligations attached to the sacred order are, by law, considered null and void without the intervention of a dispensation. VI. In the case at hand, although the force or fear inflicted upon Joachim seemed grave, and therefore, by law, he might have been absolved from the obligations of the Subdiaconate; nevertheless, the Holy Congregation judged it more expedient to grant an Apostolic Dispensation (1). (1) Compare a case of this kind, which I have explained in Volume II, page 443, and another in Volume I, page 328, in which the doctrine of the forum on this matter is more fully explained.

[*Latin ed. p. 95*]

95. OF BETROTHALS. On June 26, 1869, and August 13, 1870. Summary of the case. Against Anthony, who had been a widower for a long time, an impediment, so-called *nihil transeat*, was placed by the girl Assumpta in the Episcopal Curia, due to the promise of marriage and the rape caused by the same Anthony, from which she conceived a child. After an investigation, four women were presented as witnesses to prove this, and after being subjected to a formal examination, one testified: "I knew of the love between Anthony and Assumpta, and I have often seen the man visiting the woman's house, and I have also often heard her, at the man's urging, calling him to come to his dwelling." She added, "I know that the woman was seduced under the promise of marriage." Another of the witnesses said: "I knew of the seductions and arts used by Anthony to make Assumpta yield to his desires; and I saw him later in her house, who, in response to Assumpta's tears over his infrequent visits, said - 'Do not fear, next week we will go to the Church to discuss the matter of the vow' (a prompt to the vow)." The third protested that she knew nothing else, "except that the girl, born to Assumpta, was Anthony's daughter." Finally, the fourth added: "I once visited Assumpta's house and found Anthony there, and upon seeing him, I said - 'Well done, Anthony!' (bravo Antonio!), to which he replied - 'Indeed, I will marry her' (sì che la voglio sposare), and after saying this, turning to the woman, he said - 'Is it true, Assumpta?' (è vero Assunta?),

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and she replied - 'Indeed' (si signora)." The man did not present any witnesses who would contradict, perhaps thinking that from the testimonies presented, the existence of the betrothal could not be inferred. Based on the testimonies of the witnesses, the Episcopal Curia issued a judgment, also taking into account the honor of the woman, whom it considered to have been seduced only under the promise of a future marriage; therefore, it decreed: "It is fully established that there was a free and voluntary promise and reaffirmation of a future marriage to be entered into between Anthony and Assumpta, that is, a true and legitimate betrothal, and..."

[*Latin ed. p. 96*]

96. OF BETROTHALS. "Therefore, Anthony himself remained hindered in this Episcopal Court." With this sentence issued, and following an appeal interposed by Anthony, the case ascended to the Sacred Congregation of the Council, to which all the acts of the process from the Court were transmitted. It was debated on August 13, 1870: "Whether the sentence of the Episcopal Court should be confirmed or annulled in this case," and the Sacred Congregation judged that the sentence should be confirmed. Anthony then requested a new hearing, and the question was again debated, with a lawyer appointed for him. A visual debate. ARGUMENTS FOR THE NULLITY OF THE BETROTHAL. Anthony's defender maintained, in general, that a betrothal contract restricts the free will of a man in marriage; therefore, the existence of a betrothal cannot be demonstrated by any indication or popular rumor, but rather, conclusive arguments are required, which demonstrate the will of the man and the woman, as is customary with the Sacred Congregation, and specifically in Melphicten, in the case of Sponsa!, June 27, 1863; in Venice, December 10, 1863; and in Neritonen, April 1, 1865. For a betrothal consists in the mention and promise of future marriages, I, 1 ff. de Sponsal., and contains a bilateral contract, of which there are two elements, namely, the promise and the deliberate and firm reciprocal promise of a future marriage, so that if one of these is lacking, the betrothal contract must necessarily be void. In this particular case, however, it was argued that neither a true nor a presumed betrothal contract existed. For, for a true contract of this kind, the promise of the man alone is not sufficient, but the simultaneous reciprocal promise of the woman, given in the same context, is required; and presenting the testimonies, he showed that neither the man's promise nor the woman's reciprocal promise existed in this case. For all the witnesses spoke only of less honorable amorous relations, and recounted various words and deeds. However, assuming that one or the other expression of Anthony, as reported by the witnesses, carried with it a promise, such as these: "We will go to the Church next

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week to make a vow;"

[*Latin ed. p. 97*]

OF MARRIAGES. 97. However, it was possible for the promise of a woman to be established through the entire course of events. It was noted that it was not sufficient for the woman's promise, that Anthony, in the presence of one of the witnesses, asserted: "Indeed, I will take her as my wife," and when the same witness, Assumpta, asked "Is that so?", she responded: "Indeed." For this, in fact, contains the highest degree of acceptance, which must not be confused in any □□ way with a formal promise. He concluded that the four witnesses presented were entirely unique, because not all of them referred to the same event, but to particular circumstances and distinct conversations with Anthony; 2° that none of the women examined had presented a case of a formally contracted marriage, and therefore, it could not be established that a legitimate contract of marriage existed from which a canonical impediment would arise. Proceeding to remove the presumed contract, he stated in law that there are three elements of this presumption: 1° a true and free promise of future marriage; 2° a carnal union that followed; 3° the known good reputation of the woman. And these three elements must be present together in order for the presumed contract to be maintained, because the fact of carnal union alone does not constitute a marriage contract, Reiff, lib. 4, t. 1, n. 67. With these premises established in law, he observed that, in the case of the four witnesses, evidence appeared that was tainted by suspicion, both because of the women and neighbors of Assumpta, and because they demonstrated a particular interest in reconciling this marriage. But returning to the matter at hand, he observed: that if a promise from the man existed, it had been followed by a carnal union; but if there was no promise before the carnal union, the first element of the presumed contract was lacking. Furthermore, he demonstrated that the second element was absent, and he showed that the third was lacking through an extrajudicial testimony of neighbors, which Anthony had presented in this very cause: in which testimony the entire family of Assumpta was portrayed as being of bad morals. However, since there was a possibility that the Sacred Congregation might deviate from its previous rulings, in order to compel Anthony to provide a dowry for the woman and to support the children conceived through rape, he finally indicated that an action for rape could not be brought in the present judgment. For the matter at hand is the validity of the marriage, not the damages caused to the woman through rape; and obligations of entirely different natures arise from marriages, and from acts of violence.

[*Latin ed. p. 98*]

98. OF MARRIAGES. OF RAPE. For certain obligations arise from the

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contract and are directed towards entering into marriage. Others, however, which arise from rape, take on the nature of penalties, as if born from a crime. Hence, there are different actions in law, one of which is instituted according to Chapter 2 concerning betrothals and marriage, and the other according to Chapters 1 and 2 concerning adultery and rape: and these actions are not to be mixed together, and in the matters before us, it must be kept in mind what action has been instituted. Cardinal De Luca, in *De Iudiciis*, book 8, wrote: "There also remains the ancient rule that the judgment must conform to the pleadings," so that a condemnation beyond what was requested cannot follow; and the Sacred Congregation of the Council has followed this rule, as in the case of *Asculana sponsalium*, March 6, 1868; and in *Melphicten sponsalium*, July 8, 1863.

ARGUMENTS FOR THE VALIDITY OF THE MARRIAGE. FROM THE OFFICE OF FAVOR. Among other things, it was observed in law that betrothals do not subsist in a specific verbal formula, but in the reciprocal signification of wills. *Gloss*, on the chapter concerning betrothals in the book of canons; the Rota in *Maioricen, sponsalium*, April 25, 1795, before Bussio, and elsewhere. But in the matter before us, this reciprocal signification of the mind does not fail, and if it is not expressed in words, it must be demonstrated by actions, which are more powerful than words. All the witnesses testified with one voice about the very close and long-standing familiarity between Anthony and Assumpta; a fact that could not be explained without the promise of marriage, given Assumpta's reputation, which no one questioned. To this, we must add the woman's defloration, with the subsequent pregnancy and child: for a woman of such good reputation, as all proclaimed Assumpta to be, would not have suffered such a loss of honor without the hope and promise of marriage, according to what Reiffenstuelt writes, *Z. 4 Decret, de spons. et matr., § 5, n. 68*; the Sacred Rota in *Romana sponsalium*, January 26, 1738, before Nunen. And it cannot be doubted that Anthony was the perpetrator of the rape. The presumptions are confirmed by the testimonies of the witnesses, which sufficiently indicate that the man had made a promise of marriage. Given that the woman suffered the act of defloration, a tacit promise is to be held in its place, as Sánchez de Matrim, book 1, chapter 5, n. 7; the Sacred Congregation of the Council in *Veliterna sponsalium*, June 9, 1855. The witnesses testified that Anthony said that he intended to take Assumpta as his wife, to excuse his familiarity with her. And if others...

[*Latin ed. p. 99*]

OF MARRIAGES. 99. He had said; but it is far more important that the words spoken to the woman by Anthony should be considered, for thereby she was to achieve her shameful end. Finally, the promise of the man, and the woman's reaffirmation, clearly existed in the testimony of one of the witnesses: in whose presence Anthony said, "I will certainly take her as my

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wife," to which Assumpta responded, "Certainly." These words, indeed, seem to have constituted the promise of the man, and the woman's reaffirmation. However, having established these facts, a natural obligation arises, namely, to fulfill the promise given, to provide compensation for damages incurred, and to repair any harm done. With these and other considerations in mind, the case is once again presented under the usual formula for raising a doubt. The doubt: "Whether one should adhere to or depart from the decisions in this case." RESOLUTION. The Holy Congregation of the Council, having again examined the case on August 13, 1870, decided: in accordance with the previous decisions. FROM THE EXPLAINED DOCTRINE, ONE MAY GATHER: I. That a contract of betrothal, which consists of a mutual and deliberate promise of a future marriage, must be proven conclusively (or with valid arguments that exclude doubt). II. That the reaffirmation on the part of the woman can be upon the presumption repeatedly, if it is established that there was a deliberate promise on the part of the man, when the woman, otherwise virtuous, has become so dishonored that she has suffered a rape after the man's promise. III. That such a presumption of rape does not arise from the rape itself, if it is not established that there was a deliberate promise on the part of the man, or if the rape did not precede the promise. IV. That the promise of the man, for which the woman, encouraged by the hope of marriage, yielded her body, is a cause, if the woman is otherwise virtuous, to compel the seducing man to make amends for the damages, either through marriage or by other appropriate means. V. That the obligations arising from the contract of betrothal and the obligations arising from seduction are different in themselves; since the former arise from the faith given, from which the betrothed cannot, without the consent of the other, withdraw; while the latter...

[*Latin ed. p. 100*]

100. OF MARRIAGE. From the general obligation of repairing damages incurred, which can be repaired in various ways (1). VI. In a case, considering all the circumstances, the advocate argued that the judgment should conform to the document in which the case is introduced (fearing that the man might be forced to repair the damages if the Holy Congregation were to deviate from its decisions), so that the judge must render a judgment according to what is requested, and not beyond what has been requested and brought before the court; but this is generally true, especially when, following the order of law, the case is brought before the lower tribunals. This is also usually observed by the Holy Congregations; but not always, since the Holy Congregations, while performing the function of judging, are also, in a broader sense, administrators of justice in the name of the Supreme Pontiff: therefore, if justice requires it, they can extend the judgment beyond what is requested, and they often do so. In a case, if the

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Holy Congregation were to deviate from its decisions, it would most likely add a condition for repairing the damages, including the education of the children; especially considering the poverty of the woman, who would have difficulty sustaining another lawsuit in a lower tribunal regarding the repair of damages. There are no examples lacking of this in the chronicles related above. I stated above that obligations arising from a marriage contract and obligations arising from seduction are different. The question can easily be asked: what is the law if a man, violating the obligation of the marriage contract, were to contract a marriage, as they say, civilly, with another woman; and then request that the same marriage be celebrated before the Church, with the first fiancée claiming her rights? Could the Ordinary grant permission for the marriage to be celebrated before the Church? Certainly, not according to the strictness of justice: for the canonical impediment does not cease by an unlawful act, which is falsely called a marriage: therefore, according to the strictness of justice, if the man did not want to be guilty of the crime of concubinage, he could remain with the second woman as a brother with a sister. But, when a man finds himself in such a condition, although it is due to an unjust act, and he cannot fulfill the promise made to the first woman, the obligations arising from the marriage contract are converted (not according to the strictness of justice, but according to canonical equity) into those obligations that derive from the general obligation of repairing damages incurred: so that it does not seem that the Ordinary could grant permission to contract marriage before the Church unless the man first repairs the damages; that is, he properly provides for the first fiancée if it is necessary, and considers the education of the children. If the man were poor, so that he had nothing with which to provide for the first fiancée and to consider the education of the children, then the rules of moral prudence, which are taught by the authors of moral theology, would apply: that is, the obligation of repairing all damages is waived, and permission to contract marriage before the Church is granted. Likewise, these same rules could apply if, for example, the case concerning the marriage contract had been judged, and difficulties arose in judging it, which would prolong the judgment too much: then, nevertheless, if these same rules were applicable, a clause would have to be added to the obligation of repairing the damages, namely, "as far as and insofar as it is legally possible." Also, see what I wrote in Volume II, page 258, and also the case concerning the marriage contract in Y, page 502, where a safer practice is indicated.

[*Latin ed. p. 101*]

OF MARRIAGES. 101 It did not seem fitting that I should abstain from presenting witnesses favorable to the man (who was already a widower, having certainly seduced and abused the girl), lest it appear that the Holy Congregation had judged the existence of the marriage.

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OF MARRIAGES. August 15, 1870. Summary of the case. In the year 1855, a marriage was celebrated between Titus, who had not yet completed his fourteenth year, and Caius, who was nineteen years old, both being rural folk and uneducated, after certain denunciations. After the celebration of the marriage before the parish priest, the bride was taken to the husband's home, and the husband returned to tend his sheep. Seven months after the beginning of the marriage, because of the annoyances of the father-in-law, Caius returned to her parents' home, without greeting her husband, whom she said she had never seen again since the celebration of the marriage. Finally, seeking a solution to the marriage bond, she petitioned the Supreme Pontiff, stating that she had "entered into marriage with Titus, who was in the fourth degree of consanguinity to her, being connected to her by the same grandfather, who, at the time of the marriage, had completed only fourteen years of age," but that "consummation had never taken place," and that "such hatred had arisen between them and the husband that no reconciliation whatsoever was possible," and for these reasons, she implored the dissolution of the marriage. Such prayers, being benignly received by the Pontiff, were sent to the Episcopal Curia, so that, after a proper process according to the Constitution, a judgment might be rendered in the first instance, and the case finally referred to the Sacred Congregation of the Council. The Vicar General, after a properly conducted process, declared the final judgment: "Caius and Titus are and were consanguineous in the fourth degree in the same line," and therefore, the marriage between them was...

[*Latin ed. p. 102*]

102. MARRIAGES. "That a marriage celebrated without an Apostolic dispensation is null and void, and always has been." On this point, the defender of the marriage appealed to the norm of Benedict XIV. Considering the poverty of the spouses, the matter was treated economically under the doubt stated at the end; with the opinion of the Canonist and the Theologian, and with the observations of the Defender ex officio. A gynoptic discussion. OPINION OF THE CANONIST. After presenting the facts, the Canonist argued that the marriage was null on two grounds: 1° due to a lack of consent, and 2° due to an impediment of consanguinity. Regarding the first point, he stated that, in all contracts, and especially in marriages, consent is the fundamental basis of the contract, and that it cannot be supplied in any way, *Sánchez de matr. lib. 2 disp. 25 nn. 1 et 5*, and that this principle of law, *l. 30 ff. de reg. iuris*, is present in both canon and civil laws. "It is consent, not carnal intercourse, that constitutes marriage." Canon law, in *c. 27 q. 2 c. 2*, states: "It suffices, according to the laws, that there be only the consent of those concerning whom the marriage is entered into." If this consent is lacking in marriages, all other things, even if accompanied by intercourse, are rendered void. Furthermore, not any kind

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of consent is sufficient in marriages, but rather that which is free from any appearance of violence or coercion, *Cap. 14 de sponsal*. "Where there is no room for consent, where fear or coercion intervenes, it is necessary that, where assent is required, the matter of coercion be removed. Marriage is entered into solely by consent, and, when it is questioned, it must enjoy full security, the state of mind of which must be investigated, lest someone, out of fear, say that they wish what they hate, and thus bring about the consequences that often result from marriages entered into against the will." Having established these principles of law, the Canonist argued that the marriage in this case was null due to a lack of consent, because the consent was vitiated by fear. From the mouths of the witnesses, who all agreed, and even from the priest who celebrated the marriage at that time, it was learned that this marriage took place because of the cares and anxieties of the father, Titus, who also confessed that he and the mother of Caia had used arts and means to bring about the reconciliation of the marriage. However, solicitations, arts, and prayers proceeding from a person to whom reverence is due, although...

[*Latin ed. p. 103*]

MARRIAGES. 103. When, on the one hand, there is great pressure, which, I will not say vexes, but overwhelms, and on the other hand, due reverence for the person making the request, which makes the one asked timid and fearful, and prevents him from daring to contradict, it is rightly and justly the best course of action to compel both, for fear, to be prudent and steadfast, and to extract consent from them. But solicitations and persuasions used by parents towards their children to extort consent for marriage vitiate the consent itself, as was decided by the Rota in Nicaea, in the matter of Matrimonium, March 6, 1857, before Seraphim: S. C. C. in Lünen, Sarzanen. Matrimonii, June 22, 1833. In this case, although there were no torments, yet it was alleged that the solicitations had proceeded to such an extent that they truly constituted coercion. The father of Titus said: "Together with the mother of Caia, we made every effort to ensure that this marriage would take place." The parish priest said: "Although I had expressed my opinion against this marriage, the father of Titus repeatedly insisted on it; from these solicitations, I was led to suspect." The parents said in unison: "This marriage was celebrated in such a way that neither of us knew anything about it." From all of these things, it was determined that Titus had not freely consented to the marriage, and that his father had intended evil. To conclude, we must also consider the silence of the spouses towards their parents, because the removal of consanguinity by marriage gives rise to a strong presumption of coercion, as stated by Alciat, cons. 33, no. 22, lib. 2; Serret, cons. 296, vol. 11, after Menoch, praesumpt. 4, no. 14. With these presumptions presented, the confession of the spouses themselves must be imposed, according to Sánchez, de

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matr., lib. 2, disput. 45, no. 15. Indeed, Caia testified: "I entered into the marriage at the suggestion of my father and mother, and neither I nor Titus ever gave our consent, and we went before the parish priest in order to obey our parents, and gave answers according to the instructions they had already given us." Titus added: "I remember, as if it were a dream, that I was once taken to the parochial church to hear Mass, but I do not remember meeting Caia there, although I later heard that I had married her." This flimsy confession of the spouses gains new strength from the fact that...

[*Latin ed. p. 104*]

104. Regarding MARRIAGES, it was testified by all that "Titius was always in the countryside at Murten, that he slept in a house, and never had relations with his wife." However, the subsequent protests concerning the celebration of the marriage, and the abstention from the consummation of the marriage, are indications of a marriage begun without consent, as Sánchez de matr. lib. 2 disp. 45 n. 6 states, citing Mantic. Rot. decis. 24 n. 1, with the addition of Sperell. decis. 5 num. 59 and 60, and Buratt. decis. 861. The lack of consent in marriages can be inferred from preceding, concurrent, and subsequent circumstances, as the Rota stated in the case before Ludovisi, decision 826, and elsewhere. Finally, these indications and strong presumptions of law are sufficient to establish the nullity of a marriage on this basis, as stated in the aforementioned decision before Ludovisi. In the second case, the Canonist argued for the nullity of a marriage due to consanguinity in the fourth degree in the collateral line, in which Titius and Caia were joined; the doctrine presented in chapter 8 on consanguinity applies, where it is stated: "Therefore, since the prohibition of conjugal union extends up to the fourth degree (of consanguinity or affinity), we wish this prohibition to be perpetual, notwithstanding any constitutions issued under this pontificate or by others, or by us; so that if anyone should presume to marry in defiance of such a prohibition, no length of time should be a defense, for the duration of time does not diminish sin but increases it; and therefore, the crimes are all the more serious, the longer they keep an unhappy soul bound." Furthermore, in chapter 1 of the same title, it is stated: "If, after careful inquiry and with the help of witnesses, you find that the first husband reaches the fourth degree of consanguinity with the surviving party, do not delay in proclaiming the sentence of divorce; for, as the canons say, one must abstain from both the relatives of the wife and one's own relatives." Clement, in unie. dict. tit. Conc. Trid. sess. 24 Cap. 5 de ref., also states this. In the case at hand, the Canonist demonstrated, through a genealogical tree, that Caia and Titius had the same great-grandfather, and that their ancestors, Angelus and Xistus, were brothers; from which Caia was born, and from which Titius was born. This can be verified from the Parish Registers, which, in such cases, have great authority and are public

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documents, as Reiff, lib. 2 tit. 22 n. 127, states: "Parish registers, which attest to baptisms, marriages, or deaths, and the contents thereof, clearly pertain to the office of the parish priest." The reason is that, although the parish register is not public, in the sense that it is not held by hand..."

[*Latin ed. p. 105*]

MARRIAGES. 105 "Although a marriage, having been duly registered with all the required formalities, is nevertheless, by the authority of the Holy Council of Trent, and with the diligence and fidelity of the Parish Priest, considered valid in *electa*, it is undoubtedly necessary to apply this principle. Otherwise, the burden imposed by the General Council upon the Parish Priest of registering such matters in his book would have been in vain, unless he publicly demonstrated and fully proved his trustworthiness. Furthermore, *Devoti instit. canon. tom. 3 tit. de probat. §. 20, et alii*. This argument, arising from the Parish Registers, has been demonstrated to be confirmed by the great importance of the faith of neighbors and those nearby in such controversies, as is evident from cause 35, paragraph 6, chapter 1, which states: 'No one should accuse blood relatives from outside, nor should consanguinity be considered in the synod, but rather those relatives whose knowledge pertains to the matter; that is, the father, mother, sister, and brother, the paternal uncle, the maternal uncle, the aunt, the maternal aunt, and their offspring. If, however, the entire lineage is lacking, the Bishop shall canonically inquire of the oldest and most truthful individuals, to whom such relationships are known, and if consanguinity is found, they shall be separated.' To this, the text in chapter 3, 'Those who may accuse a marriage,' adds: 'It seems to us... that parents, brothers, and relatives of both sexes should be admitted in their testimony, for joining or dissolving a marriage, as is approved by both ancient custom and laws. Especially parents, and if parents are lacking, those who are closest, for each person strives to learn, whether from witnesses and records, or from the accounts of elders.' In this case, the parents and relatives testified from the oldest inhabitants of the place that Angelus was the great-grandfather of Caius, and that Titus's great-grandfather was his brother, thus removing all doubt regarding the consanguinity that would unite the spouses. Nor can it be said that the witnesses brought forward are subject to censure under chapter 6, 'Those who may accuse a marriage,' which considers the testimony of those who were silent at the time of the denunciation to be suspicious; for in this case, there is no indication of collusion, and until the day of the celebration, Titus's father maintained absolute silence, and it is well established that the witnesses did not have knowledge of the denunciations. In these circumstances, their testimony is valid according to the same chapter 6, 'Those who may accuse a marriage,' which states: 'If, at the time of the aforementioned denunciation, the one who seeks to join the couple was outside the diocese, or if, for other reasons, the denunciation

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could not have reached his knowledge... or if there was another legitimate impediment, his accusation should be heard.'"

[*Latin ed. p. 106*]

106. MARRIAGES. THE THEOLOGIAN'S OPINION. The opinion of the Canonist Theologian was entirely in agreement with the case, in which he also demonstrated that no marriage existed, on two grounds: namely, due to a lack of consent, and due to the impediment of consanguinity.

OBSERVATIONS OF THE DEFENDER, ACTING IN HIS OFFICE. Firstly, the Defender argued that a lack of consent could not be alleged. He added that, indeed, from the very confession of the woman, Caius, it clearly appeared that she had entered into marriage, having been persuaded to do so by her mother. Furthermore, after the marriage, she had resided for seven months in the home of her father-in-law, and thus, both the events that preceded the marriage, and those that accompanied and followed it, demonstrated that Caius freely and spontaneously entered into marriage with Titus.

It was even less the case that dissent existed on the part of Titus. For, from his testimony, it was clear that no fear of marriage had been instilled in Titus at the time of its initiation. And his desire to suggest that the celebration of the marriage had been a sham served only to confirm his consent. It was impossible that a young man, who had already completed his fourteenth year when the marriage took place, should have completely forgotten the memory of that celebration. Therefore, the testimony of Titus was manifestly false, and it actually demonstrated that his consent had indeed been present.

It was absurd to maintain the contrary, namely that the parish priest and the father of Titus had certainly warned Titus against entering into marriage with Caius, and also that it was contrary to the nature of the thing for Caius, during the seven months in which she resided in Titus's home, never to have engaged in the consummation of the marriage. On the contrary, from the examination of Caius's body by midwives, it was established that she had been deflowered. The explanations that Caius gave regarding this matter contained obvious contradictions, and should be relegated to the realm of fables.

Having established the existence of consent, the impediment of consanguinity was removed, which should be clearly proven by the light of day. The demonstration of this impediment was lacking; it should be noted that the parish priest, who opposed the celebration of the marriage, had carefully examined the parish records when the matter of the marriage was being considered, and would not have overlooked any impediment of this kind, if one had existed. This was confirmed by the testimony of relatives, who, upon hearing the testimonies, stated that no impediment existed. The testimony of a more recent parish priest should not be given credence,

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because...

[*Latin ed. p. 107*]

MARRIAGES. 107. He would contend with another parish priest who had celebrated the marriage, and he would accuse the Episcopal Curia of error in issuing its judgment, because it should have appointed experts to examine the parish registers and report on their condition. He would offer no reason why the statement of the more recent parish priest should be preferred over that of the older one, asserting that the value of his assertion was equal to the value of the other's denial. The question: "Does it appear that the marriage is null in this case?" RESOLUTION. The Holy Congregation of the Council, having knowledge of the case on August 18, 1870, decided to respond affirmatively. From which, one gathers: I. The matrimonial contract consists of the free consent of the contracting parties. II. Where there is a serious intervention of force and fear, or reverential coercion, which compels those who are reluctant to perform the act of the contract in every way, the marriage is invalidly celebrated. III. Those who are related in the fourth degree of consanguinity, who have not been exempted from the invalidating law by an Apostolic dispensation, cannot contract marriage. IV. Such a marriage cannot be validated by the passage of time, nor can it be considered valid due to ignorance of the impediment: for the invalidating laws establish the state in which the contracting parties are, in which they are incapable of contracting marriage with each other (1). (1) There are authors, especially in moral theology, who except the impediment of crime from the invalidating impediments, arguing that this impediment of crime does not apply to those who are ignorant of it. They present this opinion at least as probable: they do not, however, deny that the opposite opinion is common. These authors usually argue as follows: the impediment of crime has the nature of a punishment; but those who are ignorant of punishments do not incur them. Thus, for example, if someone sins against a law that prohibits and simultaneously punishes, such as through censures, if that person is ignorant of such a punishment, he does not incur the censures imposed by the law. But it seems to me that this principle (which is true when it comes to these prohibiting laws and this type of punishment, in the internal forum; for in the external forum, ignorance of the law is not usually an excuse) cannot, at least indiscriminately, be applied when it comes to a law that invalidates an act, even though the legislator is moved to invalidate the act in order to vindicate a crime. In these cases, the rule of law 64 in 6 applies: "That which is done contrary to the law must be considered as if it had not been done." Especially when the vindication of the crime is not...

[*Latin ed. p. 108*]

108. OF MARRIAGES. V. Furthermore, you must collect the parish reg-

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isters, as prescribed by the Council of Trent, which the parish priest is obligated to keep, in order to provide full and reliable evidence of baptisms and marriages, unless something to the contrary prevents it. VI. In this matter, although it was not sufficiently established that the marriage was null due to a lack of consent, it was fully established that there was an impediment of consanguinity in the fourth degree (1). This is the sole reason that might move the legislator to render an act invalid, but other reasons may also be considered, such as in our case regarding the impediment of a crime, namely, to deter people from committing such crimes, since the end that those who commit crimes propose to achieve by committing the crime cannot certainly be attained; or for the sake of public decency, which does not allow anyone to profit from their own injustice; and for other similar reasons. The general principle that arose from the laws that invalidate marriage is that the parties are considered incapable of contracting marriage. This is the truest principle. The objective impossibility of the contract, as established by the law that invalidates it, is well expressed by the subjective lack of the capacity to contract. Therefore, when the authors, who follow the common opinion, approve of this argument: that the impediment of a crime is not a punishment, but an incapacity, or if it must be called a punishment, it is nonetheless primarily an incapacity to contract; they are not saying anything different than that this impediment invalidates the marriage, and that this invalidation may contain, or does contain, the reason for punishment: since it is an invalidation of the act, ignorance of this invalidation cannot render the act valid. A deceptive argument would be this: the incapacity itself is established by law as a punishment for the crime; and therefore, what is required to incur the punishment is also required to incur the incapacity; and what exempts from the punishment also exempts from that incapacity. These words are then converted into these others: the invalidation of the contract itself is established by law as a punishment for the crime; and therefore, the knowledge of the punishment, which is required to incur the punishment, is also required for the contract to be invalid; and ignorance, which exempts from the punishment, will also make the contract valid. To whom can this be suggested? For the principle that subjectively excuses from incurring punishment due to ignorance is converted into a principle objectively effective in overcoming even those laws, which are often enacted to invalidate an act, so that no one may be considered excused by sin and able to avoid the law. Furthermore, setting aside such clever arguments, in this matter we are dealing with a general law that invalidates, which establishes a stable order in matrimonial discipline; and which, furthermore, is understood in accordance with the common opinion, which determines the meaning of laws. It would be sufficient for me to read the title of the Decretals concerning the one who entered into marriage, in order to understand how important it is to consider the ignorance of this impediment: for in the cases that the Supreme Pontiffs

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resolve there, they have before their eyes only the cases presented to them and the pre-existing impediment; and although the cases presented, which are often varied and complex, often suggest that the perpetrators of the crimes were ignorant of the law establishing the impediment, nevertheless, neither the apex nor the vola [Latin for "peak" and "feather," implying a lack of substantial evidence] is found on the part of the one resolving the case, that ignorance would render the marriage valid against that law that invalidates it. (1) Both consultants, both the canonist and the theologian, in the first part of their opinion, indeed disagreed about the nullity of the marriage.

[*Latin ed. p. 109*]

109. *Ex S. Congregatione Episcoporum et Regularum, Iuribus Parochialium.* Die 2 Septembris 1870. Compendium facti. Intra limites paroeciae N existit ecclesia S2U, Oratorium Sancti Erasmi, in quo canonice erectum est Sodalitium sub invocatione S. Rochi. Anno 1867, Parochus movit querelas apud Generalem dioecesis Vicarium, quod Capellanus Sodalitii eum prohiberet, quominus paroecialem iurisdictionem in eo templo exerceret sacrasque functiones perageret: quae iura sibi esse dicebat, tum quod ecclesia illa S. Erasmi esset filialis et succursalis ecclesiae paroecialis, tum quod consuetudo, confirmata quoque Curiae Decretis, ita ferret. Vicarius Generalis, eiusmodi querelas excipiens, Sodalitio commendavit, ut Capellani nullimode impedirent Parochum in sua iurisdictione iuxta consuetudinem; secus Episcopus cogeretur ad suspensiones quoque devenire. At vero eiusmodi admonitio haud efficax fuit; namque Sodalitium per suum Capellanum omnes sacras functiones agere perrexit; et Parochus studuit quoque in ea functiones peragere quamquam Capellanus obsisteret: inde protestationes, accusationes etc. Ut eiusmodi perturbationes cessarent, Vicarius Generalis invitavit partes ad deducenda iura sua. Gubernator Sodalitii sua iura deducens allegabat celebre Decretum S. Congregationis Rituum, Urbis et Orbis, editum anno 1703: nullam, inquit, exsistere peculiarem conventionem, quae iura in dicto Decreto exposita limitaret, neque consuetudinem aliquam viguisse et vigere. Res tamen ita mansit, nihilque Curia constituit; ideoque dissidia non cessarunt, ex defectu consensus: attamen uterque confugiebat ad secundam partem voti, in quo de impedimento consanguinitatis agebant, ut dubium quodvis removerent.

[*Latin ed. p. 110*]

110 OF PAROCHIAL RIGHTS. Finally, the Sodalitium presented its petitions to the Episcopal Congregation and the Royal authorities; and the Parish Priest subsequently did the same. Preserving the customary practices, the case was presented with a formula of doubt, which is provided at the end. A synopsis of the discussion. RIGHTS OF THE SODALITY. The Sodalitium cited the Decree of the City and the World, issued by the Sa-

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cred Congregation of Rites on December 10, 1703. It noted that this Decree had been issued "to put an end to the controversies that frequently arise between Parish Priests and secular Confraternities, and their chaplains and officials, regarding parochial rights and ecclesiastical functions, and certain privileges or prerogatives." Furthermore, the Sodalitium stated that this Decree contained all the resolutions that the Parish Priest claimed were his due. Therefore, the Sodalitium presented almost all the questions resolved in this Decree, which our readers can read in the Decree itself, which we have included in full in Volume I, page 591. The Sodalitium maintained that the Parish Priest could not invoke an unmemorable custom against it, because such a custom must be peaceful and constant in order to have force; on the contrary, it was demonstrated that, since 1817, the ecclesiastical court had twice issued decrees in response to the complaints of the Parish Priests, in order that the Parish Priest should not be deprived of his rights; and yet, the Sodalitium had nevertheless carried out all its functions independently of the Parish Priest; and that such decrees had been issued at the request of the Parish Priests, without the Sodalitium being heard; and that they had produced no effect. Furthermore, the Parish Priest had not presented any arguments to prove, as he should have, the existence of an unmemorable custom. The Parish Priest presented eight or nine elderly witnesses who testified that they had seen the Parish Priest performing functions in one way or another; and who often added that the Parish Priest had been invited by the members of the Sodalitium. RIGHTS OF THE PARISH PRIEST. From the documents presented by the Parish Priest, it was observed that, by custom, the Parish Priest seemed to have the right to perform certain functions. Indeed, in 1817, the Parish Priest reported to the General Vicar that the Rector of the parish always performed the sacred functions in that oratory when the Benediction was given with the Most Holy Sacrament; and that, due to illness, he had sent his chaplain to perform the sacred functions.

[*Latin ed. p. 111*]

OF PAROCHIAL RIGHTS. 111 The Chaplain of the Sodality had prohibited the Octave of the Dead, and the Feast of St. Gall, from being celebrated. Consequently, he inquired whether he could, in the future, perform the customary functions in the aforementioned oratory. The Vicar General replied in November of the same year, in these words: "Since the right of the Parish Priest is to perform the functions, about which prayers are offered, in the Oratory of St. Erasmus, either by himself or by another priest delegated by him, we prohibit anyone from disturbing or perverting said right, under penalties, etc." On November 9, 1858, the Vicar General replied to a request from the Parish Priest, stating that he should "restrain himself according to the norms of law and established custom, with regard to the celebration of Mass and funeral rites, in the presence of the deceased, in said church of

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St. Erasmus." In the year 1867, when the Chaplain of the Sodality forbade the Parish Priest from performing functions on the feast day of St. Roch, the Vicar General again recommended to the Sodality that the Chaplain should in no way impede the Parish Priest within his jurisdiction, according to custom, lest the Bishop be compelled to resort to suspensions. However, from these documents, it appears that, in three distinct periods, the custom had been admitted by the Curia and confirmed by three Decrees, against the opposition of the Sodality; therefore, it acquired even greater force from the very opposition of the Sodality, since the Decrees of the Curia were neither revoked, nor, contrary to judicial judgment, overturned. If, meanwhile, the Sodality invited others to perform sacred functions, while the Parish Priest was absent, these actions could not constitute a prescription against the right of the Parish Priest, acquired by custom, because the right of the Parish Priest is a facultative one, which cannot be impaired by simple non-use, unless contrary acts are undertaken, according to what Doctors commonly teach; thus, for example, Engel in tit. de Praescrip. g. 2 n. 9: "In matters and acts of mere faculty, prescription does not proceed, unless there is an interposed prohibition, and he who has mere faculty, by patiently enduring, establishes the prohibiting party in quasi-possession, and himself in putative obligation." If, however, you deem the custom not sufficiently well-proven for the Parish Priest, there are more witnesses, who, being advanced in years, were asked by the Parish Priest to attest to it in writing; certainly, the Reverend Joseph, who...

[*Latin ed. p. 112*]

In the year 1834, having assisted the Parish Priest in the sacred functions within the church of St. Erasmus, he testified that the Sodality was accustomed to sending two members to the Parish Priest, who would inform him of the day on which some function was to be performed; and that, even in the presence of disputes between the Sodality and the Parish Priest, the latter had persevered in the exercise of his rights, specifically in singing himself or through another, even during Mass in the presence of a corpse; furthermore, a Carmelite Religious affirmed that he had received from several members of the Sodality, that the Parish Priest had the right to perform the sacred functions in that church; five others, some of whom were members of the Sodality, testified that they had heard from their predecessors that the Parish Priest, by invitation of the Sodality, celebrated the sacred functions. And others testified in a similar manner. Indeed, to ensure that such acts of invitation by the Sodality are not considered merely optional, other witnesses, namely Parish Priests, were presented, who in their written statements confessed that the Parish Priest had, at his discretion, celebrated these functions or had permitted the chaplains of the Sodality to perform them; sometimes, they had even forbidden the same chaplains; they had forbidden the celebration of the Way of the Cross, although the

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Sodality had obtained the consent of the Bishop; they had threatened to close the oratory on one occasion, because the members of the Sodality had not informed him of a certain feast of St. Philomena; and the members of the Sodality had requested forgiveness from the Parish Priest, etc. Moreover, this custom is to be considered all the more significant, because, as history teaches, the church of St. Erasmus was much newer than the parish church; and therefore, it is to be presumed that it was a filial church belonging to the parish. Considering these and other factors, the question to be resolved is: "Whether it is established by the will of the Parish Priest (N) that the sacred functions be celebrated in the church of St. Erasmus in this case."

RESOLUTION. The Holy Congregation of Bishops and Regular Canons, having knowledge of the matter on September 2, 1870, decided to respond: "No, in all respects."

FROM WHICH IT IS UNDERSTOOD: I. The Decree of the Holy Congregation of Sacred Rites, published in the year 1703, was issued to truncate and eliminate controversies between Parish Priests and...

[*Latin ed. p. 113*]

OF PAROCHIAL RIGHTS. 113. Associations are not bound by contrary custom, unless a custom that is truly ancient, or at least centenaria, is duly proven (I). II. Legal custom, although frequently invoked by those in dispute, is nevertheless difficult to prove. III. It has not been demonstrated that there existed in the matter either an unforgettable custom or a centenaria custom. IV. Indeed, no custom whatsoever has been duly demonstrated to have possessed any legal value: for the acts of the Curia, which were favorable to the parish priest, neither resolved the matter nor admitted any custom as certain. V. Various extrajudicial testimonies presented by the parish priest have shown rather that the Decree of the Sacred Congregation of Sacred Rites of the year 1703 should have been applied in the matter. DECREES OF PIUS. On September 2, 1870. Summary of the case. A pious widow, in her will, ordered that her body be carried to the church of St. Bonaventure, which belongs to the Regular family of the Observant Minor Friars, and that she be buried in that church, near the ashes of her deceased husband. The bequest was established with these words: "I bequeath 400 Roman scudi to the Fathers of St. Bonaventure, so that they may offer ten scudi each year on the tenth day after my death, in performing the funeral rites in suffrage for the soul of mine." And from the remaining revenues, fifty Masses." The testatrix increased this bequest by another 250 scudi, when another legatee died. (1) The aforementioned decree contains these clauses: "Saving, however, any agreements and pactis perhaps made in the erection of the confraternity, Concordias inter Acta, vol. VI, p. 611. Parties initiated and approved by the Holy See, Indultis, Constitutionibus synodalibus and provincialibus and Consuetudinibus, whether unforgettable or at

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least centenariis."

[*Latin ed. p. 114*]

III. The legatees of Pius, the pious woman now deceased, it happened that she could not be buried according to the twenty laws, alongside the remains of her husband, and that her body was taken to a public cemetery. Nevertheless, the testamentary executor offered the legacy to the Religious family, but the Superior of that family, whom they call the Guardian, protested that he was "not" capable of having any right to said legacy; and that if the heirs wished to give the legacy, he would receive it "only as an alms," promising to fulfill the obligations attached to it. After such a declaration, the nephew of the testatrix presented a petition to the Sacred Congregation of Bishops and Regulars, explaining that the testatrix had not intended in her will to provide for five of her grandchildren, except for one; and therefore, he supplicated that the Most Holy Father, for reasons of poverty, would change the will of the pious testatrix, establishing a chaplaincy from the pious legacy, reserving the right of patronage, both active and passive, for the petitioner and his descendants forever. After these petitions were sent in the usual manner to the parties concerned, and after hearing the Ordinary, the matter was put into discussion. A summary of the discussion: WHAT THE ORATOR PRESENTED. While the heirs and others agreed in substance with the orator's petition regarding the establishment of a chaplaincy, which would bear the burdens imposed by the testatrix on the Regulars, the orator nevertheless pointed out that the legacy could not be executed according to the prescription of the testatrix; but that the proposed change would preserve both the substance and the purpose of the legacy, since a larger portion of the money could be invested, and each year a funeral could be celebrated, and fifty Masses offered, with the remaining money distributed to the testatrix's descendants, who were at least relatively poor. Moreover, since the deceased testatrix was not buried in the said temple, it would not be seen as necessary to celebrate those Masses and funerals any longer in the same temple. WHAT WAS OBSERVED FROM THE OFFICE. The question was whether the pious legacy should be executed in substance; since the final cause of the legacy was the suffrage of the testatrix, and as long as that final cause remained valid, the legacy did not cease; the entire controversy consisted in the manner in which the legacy should be executed, that is, whether in the church of St. [Boo].

[*Latin ed. p. 115*]

The legatees were to have Masses celebrated; indeed, a doubt arose, because the testatrix, as the heirs had ordered, could not be buried in that church; secondly, as to whether the legatees were to be assigned to the execution of the bequest in that church, another question arose, whether

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the Regular Canons of the Observance, who cannot possess property in common, could accept that bequest, that is, whether they could receive that sum of money from whose administration they would receive annual revenues to cover the expenses of the Masses. For if, for some reason, they could not accept this bequest, then a third question would arise, namely, how the bequest would be assigned for execution. Therefore, with regard to the first question, it was noted from the authority that a false condition does not invalidate a bequest, according to Z. 72 §. 6 ff. de Condit, and demonst., in which it is read: "A false condition does not invalidate a bequest, because the reason for making a bequest does not depend on it; but the exception of fraud will usually apply, if it is proven that otherwise it would not have been bequeathed." Also, in I. 17 §. ff. of the same title. "Therefore, if a bequest is understood as if it were conceived in these words: I bequeath 600 scudi to the Regular Canons of St. Francis in the church of St. Bonaventure, so that they may celebrate a funeral and Masses for my soul every year, because I will be buried in that church, then the bequest will remain useful to the Regular Canons, even though they may not be able to be buried there after death; but then the bequest would not be useful to those Regular Canons, if the heirs proved that the testatrix was not so bound, if she knew that she was to be buried in a public cemetery." This was further confirmed, because the translation of the body to a public cemetery does not violate the rights of the deceased or of the churches with regard to funerals, according to the existing laws, since it is a certain material translation made for the sake of public health (1). With regard to the second question, as to whether the Regular Canons could accept the bequest of which we are speaking, it was noted that, in general, with Pitonio (who treats this question in detail in discept. eccl. i 2.), the Minor Friars are not totally incapable of receiving such bequests for Masses; since their incapacity consists in the fact that they cannot have annual bequests in the form of a perpetual assignment, that is, as if they were owed to them perpetually by civil action or by the force of the action from the will; but they can receive bequests by mo(1) See the passages I wrote in Vol. V, page 222, and elsewhere.

[*Latin ed. p. 116*]

116. The legatees of a bequest, while receiving a simple and pure alms intended for the expenses of celebrating Masses, having previously made a declaration that they do not intend to acquire any right by virtue of the bequest, are nonetheless bound by the obligation to fulfill the bequest, according to the doctrine received. If they refuse to fulfill it, they cannot be compelled by such Religious, insofar as they are Religious, who do not have the right to the bequest; however, the Syndic of the Convent, not insofar as he is a Religious, but insofar as he is one of the Christian people, or in the name of the Roman Church, which is the supreme guardian of pious intentions, or by virtue of his office as a judge, can compel the heirs to fulfill

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their obligation, as stated by Ferraris in *Bibliotheca Canonica*, under the word "Legatum," numbers 95 and following.

However, a difficulty arises from the fact that the matter concerned is not a perpetual obligation on the part of the heir to celebrate Masses and to provide alms annually; but rather, it concerns the receipt and administration of a sum of money by the Religious, from which they would also receive an additional income. And it does not appear that the Religious are capable of fulfilling such bequests.

Indeed, Fagnanus, in Chapter "Tractatus de Excessibus," Preliminary Number 46, refers to a series of doubtful questions that were resolved in a particular Congregation by order of Urban VIII, and among these, the following question was found: "Are the Minor Friars, both of the Observance and of the Reform, capable of receiving annual bequests that are made with the burden of celebrating Masses?" To which the answer was: "The Minor Friars, both of the Observance and of the Reform, are in no way capable of receiving annual bequests that are made with the burden of celebrating Masses." Especially since the income from the bequest money would exceed the expenses; and, as also stated in the aforementioned passage, Fagnanus states that an annual bequest made to the sacristy or fabric of a church, or to the Convent of the Minor Friars, whether of the Observance or of the Reform, is valid only if there is an excess in the amount.

However, in several similar cases, testamentary dispositions have been ordered to be enforced by the Holy See, with some modification added, as stated by Fagnanus in the aforementioned passage, number 21, and by the Sacred Rota in Decision 1325, before Emerix the younger. Specifically, the Holy See, in a case from Fermo concerning bequests, ruled on a certain bequest that a certain Tancredi had left to the Convent in the amount of 90 scudi, with the burden of...

[*Latin ed. p. 117*]

THE LEGACIES OF PIUS. Concerning 117 legacies of offices, each year, demanded by the Apostolic Syndic for administration, not only of the principal sum, but also of the fruits, and in the year 1618 this sum of money was disbursed for the purchase of a certain portion of land, which is enclosed: therefore, the question was proposed: "Whether it is permissible for said Religious to retain the portion of land purchased with the monies of the legacies, and to which burdens they are subject." And the response was given on May 31, 1721: "Affirmatively, with the condition that two Masses be sung each year; however, with the understanding that this is done verbally." Furthermore, it was noted that Regulars could not receive the legacy, but that the heirs should nevertheless be heard concerning the substantial change in the testator's will, since neither necessity appeared, nor did that change seem consonant with the testator's mind. The doubt: "Whether and how assent should be given to the prayers of the testator in

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this case." The Holy Congregation of Bishops and Regulars, having knowledge of the cause, decided on September 2, 1870, to respond: "Negatively, in all respects and according to the intention." The intention of the Holy Congregation was that the legacy should be administered by the Syndic, and that the revenues remaining after the celebration of the Masses and the anniversary of the funeral should be disbursed for the sacristy and the fabric of the church.

RESOLUTION. FROM WHICH YOU MAY GATHER:

I. Legacies of Masses which are left in the church in which the testator commands to be buried, where burial is prevented by the law of the public cemetery, remain useful to the same church by the same legacies.

II. For, by a fiction of law, the testator is considered as buried in that church in which he commanded to be buried and left the legacies of Masses.

III. Regulars of the Seraphic Order do not have the right to receive perpetual legacies of Masses, due to their inability to legally possess them; nevertheless, they can receive them as an alms.

[*Latin ed. p. 118*]

VIII. The legates of Pope Pius IV declared: It is not necessary for the heir to cease fulfilling the obligation of providing for the legate, even if a legate has been left; since this obligation does not arise from the right of the legate, but from the will of the testator. V. Nor can the heir object to the incapacity of the legate, since the legate, if incapable in law, is not incapable of charity, by which the will of the testator is fulfilled in the same way. VI. Therefore, if the heir refuses to provide adequately for the legate, it is the duty of the judge to compel him to fulfill the legacy. VII. The same duty can be invoked by the Syndic of the Convent, not as a Regular in the name of the Convent, but as a common faithful, or in the name of the Apostolic See; not so that a legacy is provided to him, but so that the heir fulfills his obligation, lest the wills of the deceased be frustrated. VIII. This also applies to legacies for Masses, which are properly reserved for the Regulars, but in such a way that the Syndic receives the legacy in the title of charity, and administers it in the name of the Holy See, and any small remaining funds are allocated to the sacristy or the church fabric.

APPENDIX I. ON THE NORMS WHICH THOSE WHO STUDY ECCLESIASTICAL HISTORY AND SACRED ARCHAEOLOGY SHOULD HAVE BEFORE THEM, WHEN DEALING WITH SAINTS OR BLESSED, WHO, WITH THE APPROVAL OF THE HOLY SEE, ARE IN POSSESSION OF ECCLESIASTICAL CULT. On the occasion of the aforementioned cause of the Bergomensis concerning the saints, the martyrs Doranus, Douhione, and Eusebia, a general decree was issued by order of the Most Holy Father,

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to warn all those who study ecclesiastical history and sacred archaeology, that whenever they deal with Saints or Blesseds, who, with the approval of the Holy See, are in possession of public ecclesiastical cult, they should be cautious, and keep before their eyes the rules on this matter handed down by Benedict XIV in the Apostolic Letters, *De Nova Martyrologii Romani editione*, n. 2 and 48, and *De Servorum Dei Beatificatione et Canonizatione*.

[*Latin ed. p. 119*]

APPENDIX [to] book IV, paragraph II, chapter XIII, numbers 9 and 40. – In the same book, IV, paragraph II, chapter XIII, numbers 7 and 8, the matter of the Roman Breviary is discussed. Furthermore, in the Apostolic letters cited, which begin with the words, "After we have learned," dated July 1, 1748, addressed to John V, King of Portugal, in number 2, the following is read concerning our matter: "Indeed, grave and serious controversies arise concerning the Roman Martyrology; some, puffed up with knowledge, exhibit an inexplicable eagerness to doubt; others, who are guided by prudence, seek to bring to light, with a certain new light of truth, those things that are obscure or uncertain. However, we have deemed it entirely necessary to abstain from these questions; since in this matter we have proposed to ourselves the task of correcting the Martyrology with accurate corrections, the first of which was carried out by Gregory XIII, our predecessor, while the Church was under his governance; the second was completed by Urban VIII, also our predecessor, about whom we have spoken in our work on the Canonization of Saints, I, 1, page 2, chapter 47, edition of Padua, 119. This being once established, and with the aforementioned corrections, no detriment is caused, but much benefit is added to this edition." In number 48... "It is sometimes fitting, as we noted in our upon our work on the Canonization of Saints, I, 4, page 2, chapter 47, numbers 9 and 40, to assist the Apostolic See, and to propose to it, with due humility of mind, corrections of errors that have crept into the Martyrology. Hence, there have been those who believed that a lighter revision of the Roman Martyrology could be obtained. For, as they themselves said, this did not contradict either our counsel or our institute concerning the previously made corrections; indeed, if the change of a single place is so slight that it is of no value, or almost of no value. And an example is given of those who wished to include Clement of Alexandrinum; and their reasons are expounded and refuted with erudition. In the work on Canonization of Saints, I, 4, page 2, chapter 47, number 9, edition of Rome, year 1790, the following is relevant to our matter, and which we mention here, using it in one of the place name citations, without in any of the place name citations, without in any way departing from the subject. Therefore, if we should say anything that may seem superfluous, it will be evident that our concern in this Martyrology aims to eliminate those things that are superfluous after

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the published corrections, and to add those that are lacking.

What, then, should be said concerning this and other similar controversies concerning certain saints whose names are inserted, revised, or to be removed from the Roman Martyrology? And thus, he defends the revision of the same; and then proceeds: "But concerning this and other similar controversies concerning the Roman Martyrology, we must say..."

[*Latin ed. p. 120*]

120 APPENDIX I. n We are not in a position to offer a judgment at present. We merely state that these things do not diminish the authority of the Roman Martyrology, which has been corrected by the works of so many illustrious men, as Theophilus Raynaud amply demonstrates in his *Annotationes* etc. We also noted this with Florentius, and although some corrections appear in the Martyrology, it is not for everyone to act as a censor, but rather to await the judgment of the Church. Indeed, the words of Florentius in *Admonitiones*, 44, concerning his own truth, are relevant here. Furthermore, we note that in the same work, book 4, part 2, chapter 4, paragraph 5, concerning the Roman Breviary, the following is read, relevant to our matter, in number 7: "But, speaking of the Roman Breviary, as it is now, the aforementioned Gavantus... testifies to the correction of the second readings of the Breviary, in which the histories of the Saints are recounted, made by Cardinals Baronio and Bellarmino during the time of Clement VIII, that it seemed to them difficult to judge, until, after mature consideration, if the work, after being discussed in good faith, could retain some full value, the Apostolic See was not shaken, and whatever certain truths are contained in the Roman Martyrology, as is noted in the aforementioned dissertation..." "Nor do (thus it continues, number 10) the Apostolic letters of Gregory XIII prefixed to the Roman Martyrology, in which it is stated that the Roman Martyrology has been corrected, and that it is to be read in the choir, and that nothing else has been omitted or changed in any matter. From this, it rightly follows that all and each error has been removed from the Martyrology, and that it is not permitted to wise men in ecclesiastical history to flee to the Holy See if there are solid foundations for new corrections." "Even if there are falsehoods, although the truth determines it. Finally, we assert that it is a very small change; indeed, the very Church, the Author, is able to restore something with her testimony, and perhaps others would have had it in a different form, which would have been more probable, although it is now accepted by many. From this ingenuous confession, some have seized the opportunity to sharply criticize the Roman Breviary; others assert that it is filled with fables, and that its authority in historical matters is to be completely rejected; while others, contrary to those who maintain the opinion of the Roman Church, consider it impious and, as it were, heretical to doubt the historical facts recounted in the Roman Breviary, and much

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more to question them." But (thus it continues, number 8), "as a middle course, which is safer, should be followed, it seems safe to assert that the weight of authority does not extend to historical facts that are recounted."

[*Latin ed. p. 121*]

APPENDIX I. "and approved in the Roman Breviary" (for who, indeed, could doubt this concerning the Assumption, now that it is certain that the Roman Breviary has been revised and corrected several times, with the pious and learned counsel of so many distinguished men?) Therefore, it is fitting that, with due modesty, and with solid foundations based on historical facts, difficulties be raised, and that these be presented to the judgment of the Apostolic See, so that it may examine their validity and strength, should the opportunity again arise to make corrections to the Roman Breviary.

APPENDIX II. EXAMPLE OF THE METHOD FOR CONSTRUCTING PROCESS VERBAL RECORDS, ACCORDING TO CANONICAL PRACTICE IN ECCLESIASTICAL COURTS, WHICH, THROUGH THE PASSAGE OF TIME, HAVE LOST THE OLD METHOD OF PROPERLY CONSTRUCTING THEM.

It has not been only one or two who have suggested to us that, when process verbal records properly constructed are presented in cases, we should exhibit them, so that they may serve as a model for those ecclesiastical courts which, through the passage of time, have lost the old method of preparing such records. And they have indicated that this would be of great benefit to those courts. Therefore, for the convenience of those courts, which, as is known, are not few in number, we shall provide this, if the excessive length of the process does not impede it.

In the case of betrothal, which we presented above on page 95, the process verbal record, presented by the court to the Sacred Congregation, appeared to us to be properly completed; and since it is brief, we present its method as an example (1).

Before the Episcopal Court, N presented a document in which the promise and counter-promise concerning the future marriage with Titius were recorded.

(1) Here it is useful to indicate what has already been written or presented in our publications concerning the process. See, on summary judgments, Volume V, page 37, §. Another question, and following pages. See Volume III, page 505, where the method of properly receiving denunciations is presented. See the Instruction given by the Sacred Congregation on preparing the process in matrimonial cases, in Volume I, page 439, as well as the Constitution of Benedict XIV, by the grace of God, in Volume

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IV, page 346, and in Volume I, page 442, in the Notes.

[*Latin ed. p. 122*]

122 APPENDIX II. Following this outrage and the conception of a child, she endeavored that no obstacle be placed in the way of Titus's marriage to Sempronia. Titus vehemently opposed her insistence, and the Episcopal Court decreed that, within five days from the day of notification, Caia should prove and substantiate her petition with arguments. Caia appeared before the Court within the prescribed time, and, in accordance with the received notification, presented four witnesses, whom she requested the Court to summon to testify regarding the existence of the impediment. With this new petition received, a decree was issued, the tenor of which is as follows: "It was presented today," on the 30th day of the month of June, in this Episcopal Court, a petition of the following tenor, by the aforementioned petitioner, etc. Also, our decree issued on the 27th of June in the matter of the impediment hindering the marriage of Titus and Caia, both of this city N, in which it was ordered that the aforementioned Caia should present testimonies or documents to prove her asserted impediment. And since the following witnesses were presented by Caia: Lucia, Berta, Anastasia, all of this city N, we, the Bishop of N, exercising our jurisdiction, decree that the aforementioned witnesses, presented by the one alleging and insisting as above, be summoned and notified to appear before this our Episcopal Court on the fourth day of the current month of July, at the hour of eight, in order to be examined, and that our Chancellor, delegated for this examination, be present. The opposing party is notified that, if she has anything to object to regarding these witnesses, she should present it to the Episcopal Court before the examination, and due consideration will be given to it in the examination, and she must do so within the assigned time (1). Otherwise, the day having elapsed, proceedings will be continued according to the law, without prejudice to the absence or contumacy of the aforementioned parties. Thus, etc. Given from the Episcopal Court on the 1st day of July, in the year ..., by the Bishop of N, by his Chancellor. "On the same day, the 1st of July, the Curator of this Court, X, reported to me that he had notified the parties, and had left a copy of the decree with the witnesses and the parties themselves. In witness whereof, etc. B, Chancellor." The examination of the witnesses, in accordance with the proceedings of this decree, took place in the following manner, begun and completed: "In the year..., on the 4th day of July, in the Episcopal Court of N. In execution of the decree issued by this Most Reverend Court on the 1st day of the current month of July, and notified by the Curator to the parties, not only, but also to the witnesses presented by Caia, in her petition of the 30th day of June last past, in which she intended to prove that she had truly contracted a marriage with Titus of the same city, with promises and reciprocal promises of future [marital relations] (1). The authors extensively explain

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which witnesses the accused may refuse, under the titles of ”Proofs” and ”Witnesses.”

[*Latin ed. p. 123*]

n. 123 » Concerning marriages to be contracted. We, therefore, » having been specially delegated by the Bishop » with a willing heart, to » God (1). » to preside over this examination today » Question: Does she know that a contract » was made on the 4th day of the month of July of the year... » for the marriage, that is, the promise » made by our Pro-Chancellor C, and » the reaffirmation of future » marriage between the widow Titius and » Caius, or some other fact from which » this could be deduced? Answer: » My home is close to both Caius and Titius » and for this reason I had the opportunity to know the affections of one and the other, and on several occasions. » Titius came to me, asking me to » call Caius, and to bring her to the » house of Titius. On several other occasions, and often, I saw Titius » looking for Caius's house. I also knew, from my own knowledge, from » Titius's own confession, that he had » tried everything to get her to » grant him her favor, making promises » of marriage. Furthermore: (We translate the following questions and » answers of Caius into Latin.) » Question: Learned Antonius, did you » see Caius more frequently, who, when » she noticed this, spent the whole day » weeping; and regarding this matter, » Titius answered me that Caius should » not weep, because she knew her own » conscience. » Question: Does she know anything else? » Answer: I know that Caius gave birth » four days ago to a girl, whom she » keeps with her. » Question: Is she a servant, or does she » perform any duties for Caius? Answer: » Not at all, but only IX (1) This judge could have asked other questions, e.g., whether the witness had ever been put in prison; whether she had fulfilled the Easter precept, and other things, as the circumstances and the matter at hand permit, in order to better ascertain the witness's » character.

[*Latin ed. p. 124*]

124 APPENDIX n. ”As both parties contend, as I have explained above, without any coercion.” Question: Does she wish to be compensated? Answer: Indeed (and we gave her ten denarii). Question: Does she know how to write? Answer: She claims to be ignorant; and after hearing the deposition that was read, she confirmed that it was true. And we noted this down, and Our Procurator B., Delegate, Special of the Bishop C, Procurator B. To this, similar examinations in form were given to three other witnesses, namely, Berta, Lucy, and Anastasia, on the same day: therefore, it suffices for us to have presented only one. Following the examinations, the arguments were presented by both Procurators in contradiction, both orally and in writing. After both parties had completed these arguments, the Bishop gave the final judgment. ”In the Name of God, Amen. A. Saft,

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Doctor of Theology (1). By the grace of God and the Apostolic See, Bishop N, and immediately subject to the same Holy See. In the cause of impediment to marriage, concerning the impediment to the marriage of Caia and Titus, both of this N city, We, Bishop N, having seen the petition of the plaintiff, granted a term to both parties to present their evidence. After hearing the reasons alleged, and after carefully hearing and considering the testimonies of the witnesses, duly examined on behalf of the plaintiff, Caia, and after receiving their oaths, and after proper citation or warning to speak and to judgment, and after all things were carried out properly and correctly in advance, so that the aforementioned parties raised no doubt or objection to the procedure. Having heard, in public contradiction, the Advocates or Procurators of both parties, both orally and in writing. Having also heard the explicit opinion of the Fiscal Promotor of this Court, affirming the existence and validity of the aforementioned betrothal: Considering that in the present marriage cause, we are strictly bound to judge according to the facts and the evidence presented, concerning the betrothal; Considering further that, for a betrothal to be valid, which is contracted by mutual consent, it is only necessary that it be proven that there was an intention, for the manifestation of which no particular wording of words is required, nor does it matter whether the consent is expressed by words or by other signs, chapter 24 and 23 on betrothal. Considering that, from the testimony of the witnesses presented on behalf of the woman, it is conclusively proven that Titus seduced the honest girl for the purpose of carnal relations, that he knew her intimately, and that he influenced her mother. Concerning the betrothal itself, two witnesses, Berta and Lucy, separately testified as follows: They were once standing in the house as the Bishop indicated doctoral titles. (1) In the Neapolitan regions, this custom is prevalent.

[*Latin ed. p. 125*]

125. We have urged and exhort Titus, and we urge him. Having seen what must be seen, and having considered what must be considered, in the name of God, and invoking the aid of both parties, and for the sake of the promise made by the young woman, Caiam, we have received the consent of both parties. We, the Bishop N, declare and definitively sentence, that in the present case, although the explicit promise may not clearly appear, there is nevertheless present the acceptance of the same marriage and the defloration of the woman. And this, both lawfully and justly, because the young woman is not considered to have made an honest use of herself for another, unless under the faith of a future marriage; and because the union which is simply intended to satisfy lust, besides incurring the guilt of this sin itself, also contains the guilt of injustice, either with respect to the deflowered woman, or with respect to the child about to be born. Since, therefore, in this case, nothing occurs which should cause doubt about the honesty of Caiam, it seems that she has granted illicit desires to Titus, not

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with a meretricious intention, but with the intention of obtaining a union without the quality of injustice between spouses. From these things, it is clearly and manifestly evident that, between the parties in dispute, there has been a promise and a reaffirmation of a future marriage, that is to say, true and legitimate betrothal, obligating them to enter into marriage, to which marriage, all the circumstances present are conducive and should be applied, and we condemn and definitively sentence the following: the taxation of which we condemn and definitively sentence, not only in the manner mentioned, but in a better manner. Given at the Episcopal Residence today, the fourth day of the month of August, in the year. Thus we have pronounced. A. Bishop N.

The present definitive sentence was read and proclaimed before the Most Reverend and Right Reverend Lord Bishop N, sitting in the Episcopal Court of N, for the Tribunal, today, the fourth day of the month of August, at the twenty-second hour, with witnesses present, etc. (two witnesses are mentioned). And in faith, the Chancellor. Appears: The young woman, Caiam, having heard Titus promise her that he would take her as his wife, while she was pregnant.

[*Latin ed. p. 126*]

126 APPENDIX III. THE OFFICE AND MASS OF BLESSED URBAN V, AND THE DECREE OF THE HOLY CONGREGATION OF THE SACRED RELATIONS, BY WHICH THE CELEBRATION OF THE FEAST DAY IS GRANTED TO THE ROMAN CLERGY AND TO ALL THOSE WHO FOLLOW THE ROMAN CALENDAR (1). The venerable Victor was chosen, and he pronounced his vows. He excelled so much in the disciplines of Theology and Law, that for several years, BLESSED URBAN, POPE V, interpreted Decrees in Toulouse, Paris, Avignon, and in the Double Monastery of Pessulano, with the highest praise. The Abbot of Saint Germain of Auxerre, after Clement VI, and later Innocent VI, decreed the following: "PRAYER. O God, who, with fortitude, has appointed the Most Reverend Urban as the protector of the Massiliensis Church, so zealous in defending the rights of the Apostles and the Catholic faith, and so eager to spread obedience throughout the world, who, having strengthened your Confessor and Pontiff in arduous affairs and embassies, and who, having served the Church with such constancy, was taken to himself, grant that we, aided by the protection of Saint Peter, may serve the Church so diligently, that we may deserve to be crowned victorious in the heavenly Jerusalem. Amen." LESSON V. ON THE NINETEENTH OF DECEMBER, ON THE FEAST OF SAINT VICTOR. IN THE FIRST NIGHT: Readings from the Scriptures. IN THE SECOND NIGHT: Lesson IV. Urban V, the Supreme Pontiff, born of the noble Grimoard family, having put on the monastic habit under the rule of Saint Benedict in the Massiliensis monastery, while still flourishing in his innocent youth, (1) This Office

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and Mass were printed by the Holy Congregation of the Propagation of the Faith, and are available for sale.

[*Latin ed. p. 127*]

IX. In the twenty-seventh year, while still alive, he had a tomb prepared for himself. The cult, which had been offered to him from time immemorial, was approved and confirmed by Pope Pius Ninth, after five centuries had passed since his death, with the prior consent of the Congregation of Sacred Rites; and his Office and Mass were permitted to be recited and celebrated by the Roman clergy and by many other dioceses, "with a double rite." Meanwhile, the civil principality of the Apostolic See was almost overthrown, but thanks to the excellent work of Cardinal Albornot, it was restored, so that Sixtus IV and his successors, having obtained the necessary freedom, joyfully returned to the beloved city, to the joy of the Roman people. He restored the basilicas of Peter and Paul, and the most sacred Lateran Basilica, which had been completely destroyed by fire, at great expense. In that basilica, the heads of the princes of the Apostles, which had been transferred to the chapel of Saint Lawrence in former times, were recognized; and he solemnly showed them to the Roman people, and placed them in golden cases, distinguished by gems, for the faithful to venerate. He founded a monastery on Mount Pescullano; furthermore, he restored the Cassinian monastery on the mountain, which had fallen into disrepair, as if restoring its founder. Finally, leaving the city with the intention of returning again, he departed to Avignon, where, afflicted by a deadly illness, he met a blessed death in the year one thousand five hundred and seventy-seventh. After his death, miracles were manifested, and he was venerated in the church of Saint Victor. He brought Nicopolis back to the Catholic Church. He spared nothing to overcome the obstinacy of the Greeks, receiving them once again under the profession of faith from Emperor John. He declared a holy war against the infidels, and, with King Cyprius at the head of the troops, he successfully conquered Alexandria in Egypt.

[*Latin ed. p. 128*]

128 APPENDIX from ROMA: "Approved by the Holy See for public ecclesiastical worship, with which the Blessed Urban V, Pope, enjoyed from time immemorial in Massiliae and elsewhere (1), and also in his honor, the Office and Mass of the Common Confessor of the Pope were granted, with proper prayers and historical readings of the second Nocturn; the undersigned Cardinal, Vicar of the Most Holy Lord Pope Pius IX in ROMA, deemed it his duty to humbly request the aforementioned Most Holy Lord, that He would deign to grant to the clergy of ROMA and to all those who recite the Divine Office according to the Roman Calendar, an Indult to celebrate the Feast of the Blessed Urban V, Pope, on the nineteenth day of December, under a lesser double rite, with the aforementioned Office

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and Mass. Furthermore, His Holiness, graciously receiving these requests presented by the aforementioned Cardinal, deigned to assent to them with benevolent prayers: observing the rubrics. Notwithstanding any contrary regulations. On the twelfth of October, 1870." Place of the Seal: Cardinal Prefect. C. Ep. Ostien. et Veliternen. CARD. PATRIZI S. R. C. Dominicus Bartolini S. R. C. Secretary (1) I presented the Decree of confirmation of the Cult, and also a synopsis of the Cause, in Volume Y, pages 426 and 458.

[*Latin ed. p. 129*]

129 FROM THE SECRETARY'S OFFICE. APOSTOLIC LETTERS GRANTING INDULGENCES, ISSUED BY POPE PIUS NINTH, GIVEN TO THE PRESENT STATE OF AFFAIRS. "To all the faithful who shall read these letters, greetings and the Apostolic Blessing." In so many difficulties and trials through which God permits Us and Our Church to pass, so that We may be able to merit the crown of a life proven by temptation, some of the faithful, remembering that, while Peter was held in prison, the Church prayed without ceasing to God for him, have prepared a certain form of prayer to be presented to Us, the beginning of which is: "O, divine and most loving Heart of Our Lord Jesus Christ, from which the Church Cattolica received life:" so that, using it themselves and those to whom they may propose it, they may strive to obtain from the Father of mercies, who does not allow anyone who hopes in Him to be excessively afflicted, indulgence, true freedom, and lasting peace for Us and for the Christian people; and they have humbly requested that We might deign to grant spiritual graces to all those who recite the aforementioned prayers from the formula presented to Us. Moved by a pious desire to increase the faith of the faithful and the salvation of souls, and drawing upon the heavenly treasures of the Church, We have decided to favorably receive such requests. Therefore, confident in the mercy of Almighty God and in the authority of the Apostles Peter and Paul, We grant to all and each of the faithful of both sexes, who, at least with a contrite heart, shall devoutly recite the aforementioned prayers from the formula presented to Us, on any day, one hundred days of the penances prescribed to them, or any other penances due, according to the usual form of the Church. These are all recorded in *InActa*, volume VI, page Lilii.

[*Latin ed. p. 130*]

130 APOSTOLIC LETTERS. With paternal solicitude and concern for the salvation of souls, desiring that, through the remission of sins and the relaxation of penalties, even the souls of the faithful departed, united to God in charity, may receive, by way of suffrage, the benefits of these indulgences, We, moved by divine mercy, grant and decree as follows: These present letters shall be valid during the present state of affairs. We also decree that to the copies or exemplars of these present letters, even those

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printed, signed by the hand of a public notary and sealed with the seal of a person holding ecclesiastical office, the very same faith shall be given as would be given to the present letters if they were exhibited or shown. We command that a copy of these present letters (for if this is not done, We do not wish them to be considered valid) be delivered to the Secretariat of the Congregation for Indulgences and Sacred Relics, according to the decree issued by that same Congregation on January 19, 1756, and approved by Our Predecessor, Pope Benedict XIV, on the 28th day of that month (1). Given at Rome, at St. Peter's, under the Fisherman's Ring, on this 29th day of November, in the twenty-fifth year of Our pontificate.

[Signature] N. CARD. PARACCIAISI CLARELLI.

These present Apostolic Letters, in the form of a Brief, dated November 29, 1870, were presented to the Secretariat of the Holy Congregation for Indulgences on December 3, 1870, for the purpose of conforming to the regulations. In witness whereof, etc. Dominic (1) The decree mentioned here and the aforementioned facts are reproduced in Vol. JJ, p. 107.

The ordinary practice observed in requesting indulgences is as follows: First, the pious petitions, which are desired to be granted indulgences, are submitted to the Assessor of the Holy Congregation. He examines them to ensure that nothing in them contradicts the faith or Catholic doctrine; and after the petitions have been examined, or even if corrections are necessary, the Assessor appends the decree: "Nothing stands in the way." Then, the petitions are presented to the Most Holy Father through the Secretariat of Briefs, so that he may deign to grant the pious petitions indulgences from the Holy See. If the Most Holy Father grants the favor, either through letters in the form of a Brief or by another means, and if the indulgences are general, that is, not restricted to a particular community or place, authentic documents must be presented to the Secretariat of the Holy Congregation for Indulgences, so that copies of the documents may also be kept there; and this must be done under penalty of nullity of the indulgences obtained. I have indicated these things so that the various signatures made both on these present Apostolic Letters and on the pious petitions attached below may be understood.

[*Latin ed. p. 131*]

HERE, ON PRAYERS TO BE OFFERED TO GOD, GIVEN THE PRESENT STATE OF AFFAIRS. While divine justice, traversing the entire world, crushes nations in its fury, only prayers remain to the faithful, through which they may turn aside the sword of God's wrath, so that it may strike less severely. In these sorrowful days, the Author and Governor of human society, God, seems to be vindicating His supreme rights over nations, as if saying, "By Me kings reign, not by the people"; for the banner has begun to appear, written upon His garment and upon His thigh, "King of kings and Lord of lords, from whom all power comes, not

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from the people." And God struck first the fuel of the divorce existing in a prominent Catholic nation; and this blow proved all the more severe, because He found those in that divorce to be the more obstinate; yet, so that those who are defeated may suffer human humiliation, the victors should not have much to boast about. For all who are wounded and suffering experience the fury of divine justice, either through victory or through humiliation; and it seems that a happier outcome is left for those who have denied the least of God's supreme rights to society. Would that France did not seek human glory and the glory of arms in the present circumstances, but rather implored the King, whom God is fitting to administer France with divine authority, that she might then attain her most noble strength and vigor! Meanwhile, the Ark of God is held captive, governed by the same laws of divorce, by those very sons who have already become enemies, especially because they have had as their intimate masters and leaders those who have led Catholic France to its present ruin. From this, it may be argued what threatens Italy, unless it spontaneously removes (which, however, seems impossible) the principal cause of repentance, which it has finally increased with its last deed and completed. The Roman Pontiff, from whose dignity and exaltation depends the dignity and exaltation of the Catholic Church, is forced to live in the hands of others, and with him, the entire Church is depressed, which bears the image of a servant, not of a Lady. It seems that God is doing with His Church in the present circumstances as a father of a family does, who, while intent on higher things for the good of his children, does not even think of the children themselves.

[*Latin ed. p. 132*]

132 PRAYERS FOR THE ROMAN PONTIFF. Let them be offered, although He hears those who supplicate and lament: as if His silence were to say: "I will hasten to you after I have first considered these matters; in the meantime, remain steadfast as you can." Among the many works of piety and prayers which the faithful offer to God throughout the entire world for the exaltation of the Roman Pontiff and the Church, these also, which we present here, should be included, enriched with indulgences, as is stated in the Breviary. We have already noted that, for the sake of greater devotion, these prayers can be recited in any language, provided that the versions correspond to the original prayers. We know that these prayers have already been translated into French in Brussels, Belgium, by the printer H. Goemaere; also into German in Ratisbon, in Bavaria, by the printer Fr. Pustet; and also into English in Baltimore, in the United States of America, by the printers Kelly and Piet, and elsewhere; we have also published many thousands of copies in Italian.

PRAYERS FOR THE HOLY FATHER TO BE RECITED IN FAMILIES.

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Peter indeed was kept in prison, but prayer was made without ceasing by the Church to God for him (Acts 12:5).

O most divine and most loving Heart of Our Lord Jesus Christ, from which the Catholic Church received life, behold us, humble and confident, so many children who, with the most fervent affection of their hearts, pray to You for the august Head and their Father, the Supreme Pontiff. Please, out of pity, comfort Him with Your consolations.

PRAYERS FOR THE ROMAN PONTIFF TO BE RECITED IN FAMILIES. VERSION.

O Divine and most loving Heart of Our Lord Jesus Christ, from which the Catholic Church draws life, behold us, humble and confident, Your children who, with the most fervent affection of their hearts, offer prayers to You for the august Head and their Father, the Supreme Pontiff. We beseech You, Lord, through Your clemency, that You may comfort Him with Your sweetness.

[*Latin ed. p. 133*]

PRAYERS FOR THE ROMAN PONTIFF. 133 Help him with your omnipotence and sustain him until he achieves a complete victory over his enemies, who are also the enemies of justice and truth. Pater, Ave, and Gloria.

II. O Virgin Immaculate, Mary, Mother of God, hear the humble and confident prayers that we address to you on behalf of the Vicar of Jesus Christ. Because of that most splendid glory with which the Head adorned you with the dogmatic definition of your immaculate conception, console him in the bitterness that his ungrateful children cause him, support him in the days of sorrow and trial, and obtain from your Only-Begotten Son that he may also, while still a pilgrim on earth, behold the complete triumph of his Church. Regina sine labe originali concepta, ora pro nobis. (Say three Aves.)

III. Invincible leader of the heavenly armies, Archangel St. Michael; and you, most holy Joseph, spouse of the Virgin Mary, and foster father of Jesus Christ; and you also, glorious Princes of the earth, the Holy Apostles, strengthen, confirm, and defend him, that he may fully achieve triumph over his enemies, who are equally opposed to justice and truth. Pater, Ave, and Gloria.

II. Virgin Immaculate, Mary, Mother of God, hear the humble and confident prayers that we offer to you for the Supreme Pontiff, the Vicar of Jesus Christ. Indeed, Mother, may you be a comfort to him amidst the bitterness that ungrateful children inflict upon him, protect him in the days of sorrow and trial, and obtain from your Only-Begotten Son that he may, even while still a pilgrim on earth, joyfully behold the complete triumph of his Church.

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Regina sine labe originali concepta, ora pro nobis. (Say three Aves.)

III. Holy Michael the Archangel, invincible leader of the heavenly armies; and you, Joseph, most holy spouse of the Virgin Mary, and foster father of Jesus Christ; and you also, glorious Princes of the earth, the Holy Apostles, Patron of the Church at Cattolica: [Here, the following words may be freely inserted:] Strengthen him, confirm him, and defend him, that he may fully achieve triumph over his enemies, who are equally opposed to justice and truth. Pater, Ave, and Gloria.

[*Latin ed. p. 134*]

134 PRAYERS FOR THE ROMAN PONTIFF. O land of the Holy Apostles Peter and Paul, intercede with God, that for His glory and for the glory of the Church, and for the consolation of the faithful scattered throughout the Catholic world, He may send from Heaven once again His Angel to deliver the Vicar of Jesus Christ from the hands of His enemies, so that he may truly be free in the exercise of his supreme and infallible magisterium. Pater, Ave, and Gloria. We beseech You to hear us, that You may humble Your enemies. Pater, Ave, and Gloria. We beseech You to hear us, that You may deign to govern and direct Your Holy Church. Pater, Ave, and Gloria. We beseech You to hear us, that You may deign to preserve the Holy See and all ecclesiastical orders in the holy religion. Pater, Ave, and Gloria. Let us pray for our Holy Father Pius. *May the Lord preserve him, and strengthen him, and make him blessed in the land, and deliver him not into the hand of his enemies.* Let us pray. O Almighty and Eternal God, have mercy on Your servant, our Holy Father Pius, and direct him according to Your clemency in the way of eternal salvation, that, with You granting, he may desire to please You and may fulfill all things with perfect virtue: through Christ our Lord. Amen. NIHIL OBSTAT. Augustine, against Caprara, S.R.C. Assistant Examiner. This copy is in conformity with the original which exists in the Archive of the Sacred Congregation of Breviaries. In faith, etc. Rome, December 7, 1870. From the Secretariat of Breviaries, Felice Profili, Substitute of the Secretariat of Breviaries. Peter and Paul, intercede for us with the Lord, that He may send again from Heaven His Angel, for His glory and for the Church, and for the consolation of the faithful scattered throughout the Catholic world, who may deliver the Vicar of Jesus Christ from the hands of His enemies, that he may truly exercise the office of the supreme and infallible magisterium with freedom. Pater, Ave, and Gloria. That You may humble Your enemies, as above in the original.

[*Latin ed. p. 135*]

A DEVOUT PRAYER, GRANTED INDULGENCES.

"Most merciful Jesus, our salvation, our life, our resurrection, You alone are: therefore, we beseech You, do not abandon us in our distresses and

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anxieties, but through the agony of Your Most Holy Heart and through the sorrows of Your Immaculate Mother, assist Your servants, whom You have redeemed with Your precious Blood."

DECREE.

Our Most Holy Father Pope Pius IX, in an audience held on October 6, 1870, with the undersigned Cardinal Prefect of the Sacred Congregation for Indulgences and Sacred Relics, benignly granted that all the faithful, of both sexes, who shall have recited the aforementioned prayer with at least a contrite heart, may gain an Indulgence of one hundred days, once a day. This present decree is valid forever, without any dispensation. Notwithstanding any contrary decrees.

Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on October 6, 1870.

A. Card. BIZZARRI, Prefect.

Dominic Sarra, Substitute.

[*Latin ed. p. 136*]

FROM THE VATICAN. ENCYCLICAL LETTER IN WHICH, AFTER A NARRATION OF EVENTS PRECEDING AND FOLLOWING THE VIOLENT OCCUPATION OF THE CITY, THE ALREADY EXPRESSED JUDGMENTS ARE CONFIRMED. The Encyclical Letter of Our Most Holy Lord Pope Pius IX, by Divine Providence, to all Patriarchs, Primates, Archbishops, Bishops, and other Ordinary places, who have communion with the Apostolic See. PIUS PP. IX. Venerable Brothers, Greetings and Apostolic Benediction. "Considering all those things which the Subalpine Government has been carrying out for many years without interruption, with the aim of overturning the civil authority singularly granted to this Apostolic See by the Providence of God, so that the successors of Blessed Peter might exercise their spiritual jurisdiction with necessary and full liberty and security; it cannot be, Venerable Brothers, that we are not deeply moved in our hearts by such a conspiracy against the Church of God and this Holy See: and at this very sorrowful time, in which the same Government, following the designs of sects of perdition, has, contrary to all justice, carried out with force and arms the invasion of our sacred City and of other states over which We held dominion by virtue of the aforementioned usurpation, while We, prostrate before God, humbly venerate His divine counsels, We are compelled to adopt the words of the Prophet: 'I weep and my eyes do weep, because the consolator is far from me: my lilies have perished, for the enemy has prevailed' (1). (1) Jeremiah, chapter 3, verse 16.

[*Latin ed. p. 137*]

ENCYCLICAL LETTER. 137. Most Reverend Fathers, the history of this nefarious war, which We have explained and which has long been known to the Catholic world, has been made known through numerous of Our

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Allocutions, Encyclicals, and Briefs, at various times, namely on November 1, 1850; January 22 and July 26, 1855; June 18 and 28, and September 26, 1859; January 19, 1860; and through Apostolic Letters of March 26, 1860; followed by Allocutions of September 28, 1860; March 18 and September 30, 1861; and September 20, October 17, and November 14, 1867 (1). Through this series of documents, the most grievous injuries inflicted by the Piedmontese Government, beginning years before the occupation of the Ecclesiastical territory, upon the supreme authority of Our Holy See, are made clear; the laws enacted contrary to natural, divine, and ecclesiastical law; the unworthy vexations to which sacred ministers, religious families, and even Bishops themselves were subjected; the violation of solemn agreements entered into with the same Apostolic See, and the denial of their inviolable rights, even at a time when it was signaling its intention to enter into new negotiations with Us. From these same documents, Most Reverend Fathers, and the whole world will see, by what means and with what cunning and unworthy methods the same Government has sought to oppress the justice and sanctity of the rights of this Apostolic See, and will also learn what Our concerns have been regarding its audacity, which increased day by day, and how much We have done, as far as was in Our power, to restrain it and to defend the cause of the Church. You know that in the year 1859, the same Piedmontese power, through writings, incited conspirators, provided them with arms and money, to commit treason; and not long afterwards, through elections held by the people, and through votes obtained by deceit, a plebiscite was fabricated, and with this deceit and under this pretext, the provinces of Our paternal dominion located in that region were unjustly torn away, to the detriment of their goods. It was also seen that, in the following year, the same Government sought to bring other provinces of this Holy See, located in the Marches, Umbria, and the Patrimony, under its sway, under false pretenses, and with a sudden attack, against Our soldiers and the voluntary Catholic youth, who were animated by the spirit of religion and piety. These matters are all documented in Appendix IV, namely those which have not yet been included in Our notes and publications. (Editor of the publications).

[*Latin ed. p. 138*]

138 ENCYCLICAL LETTER. A slow, insidious force, drawn from every corner of the world, had converged upon our defense, surrounding us with a vast army, and, while they were least expecting such a sudden onslaught, they bravely fought for the faith in a bloody battle. It is no secret that the audacity and hypocrisy of this government are such that it has not hesitated to spread false accusations in order to diminish the odium of this sacrilegious usurpation, claiming that it has invaded those provinces in order to restore the principles of moral order there, while in reality, it has promoted the spread of false doctrines and cults everywhere, and has loosened the

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reins of avarice and impiety, even inflicting undeserved punishments upon sacred prelates and men of every rank in the Church, whom it has seized and subjected to public insults. Meanwhile, it has allowed agitators and those who have not spared even the dignity of the Supreme Pontificate in the person of our humility to act with impunity. Furthermore, it is known that we have, by the due exercise of our office, always opposed the repeated plans and requests presented to us, which sought to induce us to betray our office, that is, to relinquish or surrender the rights and possessions of the Church, or to enter into a nefarious agreement with the usurpers; and that we have, before God and men, raised solemn protests against these unjust acts and crimes, perpetrated in violation of all human and divine law, and that we have declared the authors and supporters of these acts to be subject to ecclesiastical censures, and that, as far as necessary, we have imposed these censures upon them. Finally, it has been discovered that this government, in its obstinacy and machinations, has nevertheless persisted, and has sought to promote rebellion in our other provinces, and especially in the City, by sending in agitators and using all kinds of means without interruption. "But these efforts, far from being successful due to the unwavering faith of our soldiers and the love and devotion of our people, which have been shown to us in a remarkable and constant manner, finally struck us in the year 1867, when, in the autumn, hordes of the most depraved and bloodthirsty men were sent against our territories and this City, inflamed by malice and fury, and aided by the resources of that same government, among whom were hidden many who had previously resided in this very City; and by their force, cruelty, and weapons, all was bitter and terrible for us and our most beloved subjects."

[*Latin ed. p. 139*]

ENCYCLICAL LETTER. "There were 139 of them, as it clearly appeared, unless the merciful God, with the strength of Our forces and the aid of valiant legions, had frustrated their efforts and rendered them powerless against Us, having been subdued by the illustrious French nation." In all these conflicts, in this series of dangers, anxieties, and hardships, Divine Providence, indeed, provided Us with the greatest consolation through the outstanding piety and zeal of Your Reverences, and of Your faithful, which you have constantly demonstrated through published manifestos and works of Catholic charity. And although the circumstances in which We were involved were extremely serious, scarcely leaving Us any respite, nevertheless, with God strengthening Us, We never neglected any of the concerns pertaining to the temporal well-being of Our subjects; and it was evident to all nations that the tranquility and security of the public order, the condition of the best disciplines and arts, the faith and loyalty of Our people towards Us, were maintained. Consequently, the greatest number of foreigners flocked to this City, especially on the occasion of the

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numerous celebrations which We held, and of the religious ceremonies. "Indeed, while matters stood thus, and Our people enjoyed peaceful tranquility, the King of the Alps and his government, seizing the opportunity of a fierce war raging between two of the most powerful nations of Europe, with whom one of them had pledged to maintain the present ecclesiastical status inviolate, and not to allow it to be violated by factions, immediately decided to invade the remaining territories under Our dominion and Our very seat, and to bring them under their power. But to what purpose was this hostile invasion? What reasons were put forward? These matters, which are known to everyone, are set forth in the letter of the King, dated September 8th last, which was delivered to Us by his envoy, in which, with a long and deceitful abundance of words and phrases, under the guise of a loving son and a Catholic man, and for the sake of maintaining public order, the very papacy and Our person, it was demanded that We should not consider the overthrow of Our temporal power as a hostile act, and that We should willingly relinquish that power, relying on vain promises offered by him, with which, as he claimed, the wishes of the people of Italy would be reconciled with the supreme spiritual authority of the Roman Pontiff and its rights and liberties. We..."

[*Latin ed. p. 140*]

140 ENCYCLICAL LETTER. Indeed, We could not but be deeply astonished, seeing in what manner those forces, which were to be briefly presented to Us, sought to be concealed and dissimulated, nor could We but grieve with all Our heart, at the actions of that King, who, having been brought in by unjust councils, inflicts new wounds upon the Church daily, and, considering men more than God, does not consider that He, the King of kings and Lord of lords, who "will not spare anyone, nor will He be afraid of anyone, for He makes the small and the great; and to the strong He shows Himself all the more cruel" (1). As for the demands proposed to Us, We considered it necessary to delay, so that, following the laws of duty and conscience, We might follow the example of Our Predecessors, and especially that of the blessed memory of Pius VII, whose sentiments, expressed by him in a similar case, which is entirely the same as Our own, are pleasing to Us to express and adopt. "We remember, with St. Ambrose (2), the story of Naboth, the holy man, who, being approached by the royal petition to give up 'his vineyard, where the king would cut down the vines and plant a vineyard of the finest sort,' replied: 'May it be far from me that I should give the inheritance of my fathers' (3). Much more, therefore, did We judge it unlawful to surrender this so unjust and sacred inheritance (namely, the temporal dominion of this Holy See, which has been possessed by Our predecessors, the Roman Pontiffs, for so long a series of centuries, not without the evident counsel of divine providence), or even to tacitly consent that anyone should seize the city of Rome, the

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principality of the Catholic world, where, after the most sacred order of government, which was left to His Holy Church by Jesus Christ and established by the Holy Canons, founded by the Spirit of God, should prevail a code, not only contrary to the Holy Canons, but also to the precepts of the Gospels, and that, as is customary, a 'new order of things' should be introduced, which most zealously tends to unite, confuse, and confound all sects, superstitions, with the Catholic Church." Naboth defended his vines even with his own blood (4). Can We, whatever may happen to Us, fail to defend the rights and possessions of the Holy Roman Church, the preservation of which, as far as is in Us, We are solemnly bound to uphold by our oath?

(1) Sap. VI, 8 et 9.

(2) De Basil, trad. n. 17.

(3) S. Ambros. ibid.

(4) Implicit reference to the story of Naboth in 1 Kings 21.

[*Latin ed. p. 141*]

ENCYCLICAL LETTER. 141 "Have we not been deeply concerned about religion? Or do we not defend the freedom of the Apostolic See, which is so closely linked to the freedom and benefit of the entire Church?" And how great is the temporal importance of this Principality, and its congruence and necessity for ensuring the safe and free exercise of the supreme spiritual power of the Church, which has been entrusted to it throughout the world, is demonstrated by events that are already happening (even if other arguments were lacking) (1).

Therefore, adhering to these sentiments which we have constantly professed in many of our Addresses, in our response to the King, we rejected the unjust demands of that monarch, but in such a way as to demonstrate the deep sorrow we felt, joined with paternal charity, which does not even remove from its care those sons who imitate the rebellious Absalom. However, even before these letters were delivered to the King, cities within our pontifical jurisdiction, hitherto untouched and peaceful, were occupied by his army, with presidential troops easily dispersing those who attempted to resist; and shortly thereafter, on the twenty-sixth day of the past month of September, we witnessed the lamentable sight of this city, the seat of the Princes of the Apostles, the center of the Catholic religion, and the refuge of all nations, besieged by thousands of armed men, and we were forced to deplore that, through a breach in the walls and the terror of projectiles, it was conquered by force and arms, at the command of that very man who, only recently, had so clearly professed to us a filial affection and a faithful devotion to the religion.

What could have been more grievous to us and to all good men on that day? In which, seeing the city entered by troops, and the city immediately

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filled with a large multitude of agitators, we saw the public order disturbed and overthrown; we saw the dignity and sanctity of the Supreme Pontificate, in the person of our humility, attacked by impious voices; we saw the most faithful cohorts of our soldiers subjected to every kind of insult, and unbridled license and insolence prevailing, where only recently the affection of sons, eager to alleviate the sorrow of a common parent, had been evident. From that day forward, these things have been before our eyes.

(1) Apostolic Letter, June 10, 1809.

[*Latin ed. p. 142*]

142 ENCYCLICAL LETTER. which cannot but be mentioned with just indignation on the part of all good men: nefarious books, filled with lies, filth, and impiety, are being devised and offered for sale in order to easily corrupt the minds of men; numerous ephemeral publications appear daily, aiming to corrupt the minds of the common people and good morals, to bring about contempt and calumny of religion, and to inflame public opinion against Us and this Apostolic See; scandalous and indecent images are published, and other works of this kind, by which sacred things and persons are made a mockery and exposed to public ridicule; honors and monuments are decreed for those who have been condemned by judgment and laws for the most grievous crimes; the ministers of the Church, upon whom all hatred is heaped, are subjected to numerous injuries, and some have even been wounded by blows; certain religious houses are subjected to unjust investigations; Our own residences have been violated, and from one of them, where a Cardinal of the Holy Roman Church resided, one was violently forced to leave; and other ecclesiastical men, from among Our own family, have been excluded from their positions and subjected to vexations; laws and decrees have been issued which manifestly injure and undermine the freedom, immunity, property, and rights of the Church of God; we lament that these evils, unless God, in His mercy, prevents it, will progress even further; meanwhile, we are, for reasons related to Our condition, prevented from offering any remedy, and we are reminded more and more each day of that captivity in which we find ourselves, and of the lack of that full freedom which is falsely presented to Us as having been left to Us in the exercise of Our Apostolic ministry, and which is said to be secured by necessary precautions from the intruding government. Moreover, we cannot pass over here the immense crime which has come to your knowledge, V.V. F.F. Just as the possessions and rights of the Apostolic See, which are so sacred and inviolable, and which have been recognized and maintained without dispute for centuries, could be brought into question and dispute, and as if by the gravest censure, with which the violators of these aforementioned rights and possessions are condemned by the very fact and without any new declaration, they could lose their force through

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popular rebellion and audacity, in order to justify the sacrilegious despoliation which we have suffered, disregarding the common law of nature and of nations, that apparatus and that species of plebiscite, which have been used in other provinces taken from Us, have been sought; and those who are wont to rejoice in the worst of things, have, on this occasion, fomented rebellion.

[*Latin ed. p. 143*]

ENCYCLICAL LETTER. "They have not blushed to parade through the Italian cities, as if in a triumphal procession, the contempt, or even the mockery, of ecclesiastical censures, contrary to the sentiments of the great majority of Italians, whose religion, devotion, and faith towards Us and the Holy Church are, in many ways, suppressed, preventing them from freely expressing themselves. We, however, who have been appointed and entrusted by God with the governance of the entire house of Israel, and who are constituted as the supreme judges of religion and justice, and as defenders of the rights of the Church, lest we be accused before God and the Church of having remained silent and of having, by our silence, given our consent to such a disturbance of affairs, reiterate and confirm what We have solemnly declared in the aforementioned Allocutions, Encyclicals, and Briefs, and most recently in the protest, which, at Our command and in Our name, the Cardinal entrusted with public affairs delivered on the twenty-seventh of September, to the Orators, Ministers, and officials of foreign nations residing with Us and at this Holy See; and with the utmost solemnity, We declare before You, Most Reverend Fathers, that Our intention, purpose, and will are to maintain and transmit to Our successors, intact, inviolable, and complete, all the jurisdictions and rights of this Holy See; and that any usurpation of these, whether in the manner previously attempted or in any other way, is unjust, violent, null, and void, and that all acts of traitors and invaders, whether those that have been carried out up to now, or those that may perhaps be carried out in the future, intended in any way to confirm said usurpation, are, even now, condemned, annulled, revoked, and abrogated by Us. We further declare and protest before God and the entire Catholic world that We are in such a state of captivity that We cannot safely, freely, and expeditiously exercise Our supreme pastoral authority. Finally, obeying the warning of St. Paul: 'What participation can there be between justice and iniquity? or what communion between light and darkness? or what agreement between Christ and Belial?' (1), We openly and plainly declare that We, mindful of Our office and of the solemn oath by which We are bound, will never consent to any reconciliation that in any way destroys or diminishes Our rights, and therefore, the rights of God and the Holy See; and We declare that We are prepared, with the help

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of divine grace (1) I I Corinthians, V, 14 and 15.

[*Latin ed. p. 144*]

ENCYCLICAL LETTER. In this grave age of ours, we have never been compelled to drink from the chalice that Christ Himself first deigned to drink for His Church, nor have we ever been obliged to adhere to and comply with unjust demands made to Us. For as Our Predecessor, Pope Pius VII, said: "To bring force to bear upon the supreme authority of the Apostolic See, to separate its temporal power from its spiritual power, to dissociate, tear apart, and sever the duties of Pastor and Prince, is nothing other than to seek to dishonor and destroy the work of God, nothing other than to strive to inflict the greatest harm upon the Religion, nothing other than to deprive it of its most effective protection, so that the supreme Ruler, Pastor, and Vicar of God among all Catholics scattered throughout the world, may not be able to offer them assistance and support under treacherous circumstances, which are sought through spiritual power, which must be protected by all means." Since Our warnings, remonstrances, and protests have been ignored, therefore, by the authority of Almighty God, of the Holy Apostles Peter and Paul, and by Our own authority, We, with all Our brethren in the episcopate, declare that all those, whatever their rank, even those deserving of special mention, who have perpetrated, or have ordered, encouraged, aided, advised, or in any other way assisted in the invasion, usurpation, or occupation of any part of Our jurisdiction, or of this beloved City, or who have procured or carried out any of the aforementioned acts, under any pretext and in any manner, have incurred the greater excommunication, and other ecclesiastical censures and penalties, according to the forms and tenor expressed in Our Apostolic Letters of March 26, 1860, as mentioned above.

Mindful that We hold the place on earth of He who came to seek and to save that which was lost, We desire nothing more than to embrace Our erring children with paternal charity; therefore, raising Our hands to heaven, with humility of heart, We remit and commend to God, to whom the cause belongs more rightly than to Us, that through the bowels of His mercy, (1) Allocution of March 16, 1808.

[*Latin ed. p. 145*]

ENCYCLICAL LETTER. 145 We earnestly beseech and implore that present help be granted to Us, to Our Church, and that, merciful and gracious, He may effect that His enemies, who strive to bring about their eternal ruin, may appease His just wrath before the day of vengeance, and that, changing their plans, they may console the lamentations of the Holy Mother Church and Our sorrow. "But that these such great benefits may be obtained from divine clemency, We earnestly and most fervently exhort you, Most Reverend Fathers, that, together with the faithful entrusted

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to your care, you join your fervent prayers to Our supplications, and that all together, approaching the throne of grace and mercy, we invoke the Immaculate Virgin Mary and the Blessed Apostles Peter and Paul as intercessors. "The Church of God, from its very beginning until these times, has been afflicted and delivered many times. Its own voice proclaims: 'Often have they fought against me from my youth: but they could not prevail over me.' They have built their wickedness upon my back, they have prolonged their iniquity. And now also the Lord will not withdraw the rod of the sinners from the lot of the just. His hand is not shortened, nor His arm powerless to save. He will certainly deliver His bride at this time, whom He has redeemed with His blood, whom He has endowed with His Spirit, whom He has adorned with heavenly gifts, and whom He has also enriched with earthly blessings." "Meanwhile, earnestly imploring the most abundant gifts of heavenly graces for you, Most Reverend Fathers, and for all Clerics and Laity entrusted to your care, as a pledge of Our special charity towards you, We impart from the bottom of Our heart the Apostolic Blessing to you yourselves and to your beloved children. "Given at Rome, at St. Peter's, on this 1st day of November, in the twenty-fifth year of Our Pontificate. PIUS PP. IX. (1) St. Bernard, Epistle 244 to Conrad, King. Acts, Vol. VI, page 10.

[*Latin ed. p. 146*]

146 APPENDIX IV. DOCUMENTS ATTACHED TO THE APOSTOLIC ENCYCLICAL LETTERS ISSUED ON NOVEMBER 1, 1877, WHICH DOCUMENTS SHOW HOW THE GOVERNMENT OF SUBALPINE REGIONS HAS ACTED TOWARDS THE CHURCH AND THE HOLY SEE IN RECENT YEARS, AND VICE VERSA. ADDRESS GIVEN IN SECRET CONSISTORY ON NOVEMBER 1, 1850. Venerable Brothers: "In the Consistorial Address in which We spoke to you on the thirteenth day before the Kalends of June of this year, Venerable Brothers, We did not fail to mention, in a few words, and to grieve with you, the things that had recently been enacted and established in the Kingdom of Sardinia against the rights of the Church, and We indicated to you Our intention to have a more detailed discussion on these matters at a suitable time in your Consistory. We were sustained by the hope that some remedy might be provided in the meantime for the injuries inflicted upon the Church there, which We could announce to you. But since things have turned out very differently from what We had hoped, We have considered it Our duty to, after briefly repeating the very beginnings of this matter, to lament and to implore you with more earnest prayer against all those things that have been decreed or done to the detriment of the Church, both in the continental regions and also in the overseas regions of the aforementioned Kingdom. "You know, Venerable Brothers, the solemn Convention which was begun on March 27, 1841, between the Holy See and the Envoy of the Kingdom of Regium,

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and which Our Predecessor, Pope Gregory XVI, and also King Charles Albert of Sardinia, happily recalled and ratified without delay; you know that this Convention concerned nothing other than that the ecclesiastical immunities, which in that territory had long been in force by the sanction of the Sacred Canons over the course of many centuries, and which, in more recent times, had been relaxed to some extent by agreements and by the benignity of the Roman Pontiffs, should be contained within new and much stricter limits. And from this, there were not wanting in the Subalpine provinces those who wondered at the leniency of Our Predecessor in this matter, as if it were a concession that was too broad; and also, for several years, the Government of Regium refrained from introducing the laws of that same Convention into its overseas kingdom of Sardinia. Indeed, in the year 1848, the same Government requested a new Convention from Us, and..."

[*Latin ed. p. 147*]

On the 14th of September of that year, the Bishop of Riez, to whom, among other things, the mandate had been entrusted to deliver to the legate appointed by Us, Li-, a written communication regarding the interrupted negotiations, presented a summons for a new convention. However, after a few days, having attended to other matters, he presented articles, which he declared to be a preliminary, concerning certain matters of some importance, which, he said, should precede the commencement of the aforementioned negotiations. The legate readily acquiesced. Thus, it seemed likely that Our Ministers of Riez had considered it more opportune to admit, with all due propriety and in precise terms, that the aforementioned negotiations could not, indeed, be held at the appropriate time; nay, that they should be postponed until after Our return to the city, in order that a mutual concession regarding peace might be granted; when, however, nothing was proposed in this regard, we received news that the very government of Riez had introduced a law in the Royal Assembly concerning the complete abolition of the immunities of clergy and churches, and even regarding the judgment of the patrons concerning the nominations to ecclesiastical benefices, to be brought before secular tribunals, as well as concerning other matters, all of which, either at the same time or at a later date, would cause a serious detriment to the civil immunities of the Church, or, at the very least, would endanger the exercise of its authority. Therefore, the same legate proposed new articles to the government, which he considered to be more favorable to the wishes of the government. As soon as we received notification of this proposal from the government, we ordered that it be rejected by Our Cardinal Pro-Secretary of State, and also by Our Apostolic Nuncio then residing in Augsburg. But as both objections fell through, it became necessary shortly thereafter to oppose these very innovations, which we had previously mentioned, and which had been approved by

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both legislative bodies and immediately sanctioned by royal authority. In the progress and outcome of this matter, it is regrettable that the rights of the Holy Church, which are derived from the canons established over many centuries, were endangered.

[*Latin ed. p. 148*]

148 APPENDIX IV. that they had flourished with vigor, having been violated and trampled upon by that very act, but also that more than a few of the Deputies and Senators of the Kingdom, who spoke in the public deliberations of both Councils, and whose opinion prevailed, did not hesitate to assert authority for themselves or for the Lay Power, so that solemn Conventions concerning the use of those very rights with the Apostolic See, initiated without the consent of this See, indeed, even "in opposition to it," could be rescinded, and declared and made void. You see, Venerable Brothers, what a grave matter this is: you will understand what the condition of sacred things would be, if the rights of the Church are not honored, if its canons are disregarded, if no account is taken of long-standing possessions, if, in the end, neither will its faith stand firm, according to the agreements rightly made between this Holy See and the Civil Power. Furthermore, you are not unaware that the interests of Religion, and also of Civil Order, and of all public and private affairs, depend entirely on the fact that the same ecclesiastical conventions are held sacred and inviolate; since, with their force and law violated and undermined, the validity of other public and private agreements would also be called into question." Further injuries were added to those inflicted upon the Church and this Holy See by the aforementioned new enactments, when the Royal Administrators and Lay Judges summoned two of our most sacred prelates, Venerable Brothers, the Archbishop of Turin and the Archbishop of Torino, to court; and one of them was detained in his own home as if in prison, while the other was forcibly taken to the fortress of the Royal City, and finally both were fined with a civil penalty; not for any other reason, except that, in the exercise of their pastoral office, they had given instructions to the parish priests concerning the manner in which they could counsel the consciences of those who feared God, in view of the new law. Thus, the Civil Authority arrogated to itself the right to judge the instructions given by the pastors of the Church to the consciences, for the sake of their office. Afterwards, another injury, of the same kind and even more serious, was added, after a certain noble man, whom everyone knew to be among the most zealous promoters of that most unjust law, and who, despite the fact, did not openly disapprove of it, was judged, by the authority of the Archbishop of Torino, to be unworthy to receive the sacraments of the dying. On this occasion, the Archbishop himself was forcibly taken from his church and detained in a fortress under stricter custody, and the parish priest from the religious family of the Servants of the B.M.V., who had obeyed him in the exercise

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of his office, together with the religious members of his community, were forcibly expelled from the monastery of Torino and transported elsewhere; as if it were the prerogative of the Lay Power to decide concerning the administration of the divine sacraments.

[*Latin ed. p. 149*]

x iv. 149 Concerning the administration and regulations pertaining to the most pernicious Law, which, since its enactment on that day, has determined necessary measures. On October 4, 1848, we learned that this very Law, concerning the Sacred Seminaries, public and private institutions, and other schools of greater or lesser importance, had been published, along with new instructions for their governance, which had previously been given to the aforementioned Archbishop, and also to Ourselves, and were to be delivered to the Regional Tribunal of Turin; and so it was decreed by the Minister and the authorities subordinate to him, that the Archbishop should, without the boundaries of the Regiae Division, and that all goods should be seized and retained, as mandated in Article 58 of the same Law, so that no authority whatsoever might interfere with the discipline of the schools, in the regulation of studies, in the granting of degrees, or in the selection or approval of teachers. At approximately the same time, on the 21st day of the same month, the Court of Appeal of the Kingdom of Sardinia issued a similar decree against the Venerable Brother Archbishop of Calaritanum; to whom it was declared, in the very words (although no explicit mention is made of it), that the Ecclesiastical Censures, which he had contracted through the aforementioned actions, were withdrawn, and that the immunity of Episcopal buildings was violated, and that a portion of the Episcopal Tabulara was forcibly entered. Therefore, by virtue of these decrees, these dignitaries were removed from their positions, and their temporal goods, revenues, and all that pertains to their priesthood, were taken away, some being sent to Gaul, and others to this very Alma Mater. Thus, private individuals were unjustly deprived of the authority which, for many centuries, they held in numerous institutions of learning, by virtue of Papal Decrees, Royal Laws, Constitutions, and the law from the very foundation thereof; but neither are they free to oversee this matter.

[*Latin ed. p. 150*]

APPENDIX I. Concerning matters which touch upon the doctrine of the Faith, Christian morals, or the cause of divine worship, in the administration of schools.

"Indeed, it is pleasing to hope that, at least in the execution of that Law, some consideration will be given to Episcopal authority. However, its pernicious fruits are already recognized, from the pestilent opinions and tenets contrary to the unchangeable doctrine of the Church, which are

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not only spread daily among the people in the pamphlets and leaflets of the more recent editions, but are also insidiously planted in the minds of young people by some teachers in public schools, and publicly defended. Words fail us, Venerable Brothers, to express the profound sorrow that we have conceived from the knowledge of this matter, which was recently brought to Our attention. We did not delay in providing, without any hesitation, to investigate this matter more thoroughly; and we will suffer nothing to be lacking that pertains to the office of guarding the Faith, and of strengthening our brothers in the infirmities of our own nature, which have been divinely attributed to us.

"Recently, as you know, a certain prominent man, sent by the Subalpine Government, was with us to initiate discussions concerning ecclesiastical matters to be arranged with this Holy See. However, we were not able to admit him to present the customary solemn testimonies of his legation in writing. For, whether he approached us privately, or in repeated conversations with Our Cardinal Pro-Secretary of State, he spoke of the aforementioned Law concerning immunities in such a way that he maintained that the secular authority had used its right to promulgate, in that matter, its adherence to the Canon Law, and to the agreements entered into with the Apostolic See. From this, he transferred the blame for what subsequently occurred to the clergy and sacred prelates, especially to the Venerable Brother Archbishop of Turin, for his constancy in maintaining a stricter custody in his pastoral duties. He complained more seriously about this most excellent Prelate, as if he were a man who was not very concerned about the peace and tranquility of the people; and for this reason, he declared that he had received instructions from the Royal Government on important matters, in order to persuade us to transfer the same Prelate to another office outside the Royal jurisdiction. After these things, it is unnecessary to explain further the attempts that were subsequently made, in private conversations between him and the aforementioned Cardinal, to find a way to settle matters. Meanwhile, however, it was far from the Government to cease its course of action; rather, at that very time, the aforementioned sentences of the secular tribunals in ecclesiastical causes were issued, both against the aforementioned Archbishop, and against the Archbishop of Cagliari.

"Furthermore, concerning the aforementioned immunities of the clergy and churches, we wish it to be known to all that..."

[*Latin ed. p. 151*]

We have not, and do not refuse, to consider the proposals made by the Subalpine Government a year ago; today, likewise, we do not reject the provisions of the canons concerning the immunities themselves, for place and time, as it shall seem opportune in the Lord, and provided that the Church enjoys greater freedom in the exercise of its rights in other matters. We have not lacked the desire for paternal benevolence, by which Our Predecessors,

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the Roman Pontiffs, have been seen to have favored the illustrious House of Savoy; we are also saddened by the calamities and troubles with which Our Brothers and Sons in that jurisdiction are not lightly afflicted in these matters; and therefore we are ready to apply appropriate remedies for their relief; for it is the constant institution of this Holy Roman Church, which, like a most loving mother, seeks to help its children in distress and tribulation, and by its Apostolic Authority it has always been accustomed to heal the wounds of Israel. However, we cannot use this Authority, which has been given to us for edification, not for destruction, where it is not a matter of anything other than what is an injury to the Church; what is a contempt for the Holy Canons; what is contrary to solemn agreements, indeed, even to undermine the very basis of any agreements; and finally, what is against priests and the highest prelates of the Church themselves, who, while performing their pastoral duties concerning the guidance of consciences, the administration of the Sacraments, have made deliberate, decreed, or done things there that we seem to approve of through our patience, connivance, and concessions. "May it be far from Us, Venerable Brothers, that we should ever wish to abuse Our authority to the detriment of the Church and the Catholic cause. Rather, supported by divine assistance, we will devote all our effort and diligence with a steadfast purpose to promote the benefit of religion, and to protect the most sacred rights of the Church. Therefore, raising Our apostolic voice today in this solemn assembly, we strongly denounce those things which we have described above, and all other things, whether in the continent or in overseas regions subject to the Most Excellent Prince of Turin, which in any way harm the rights of the Church, or are detrimental to religion; and we have made it known to all those to whom it pertains, that they cease from harassing the pastors of the Church and the ministers of the sacred rites, and that they hasten to repair the damages inflicted there. In the meantime, Venerable Brothers, let us offer humble prayers and supplications to the merciful Father God, and, invoking also the pious intercession of the Immaculate Virgin Mary, and of the Most Holy Apostles Peter and Paul, let us earnestly beseech Him that He may cover that beloved part of the Lord's vineyard with His right hand, and defend it with His holy arm."

[*Latin ed. p. 152*]

152 ADDRESS GIVEN IN A SECRET CONSISTORY ON JANUARY 22, 1855, TO WHICH WAS ADDED A STATEMENT CONCERNING THE PAPAL CONCERNS FOR THE CAUSE OF THE CHURCH IN THE SUBALPINE KINGDOM. Venerable Brothers: "You are well aware, Venerable Brothers, how often We have lamented with you, from this very place, the great harm which the Catholic Church in the Subalpine Kingdom has suffered and endures in a most grievous manner for many years. We have certainly spared no effort, study, or patience, in order

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to remedy these evils in accordance with the duties of Our Apostolic ministry, and We earnestly desire to be able to announce to you something that will alleviate, at least in part, Our sorrow and yours. However, all Our concerns have been frustrated, and neither the repeated remonstrances made through Our Cardinal Prefect for Public Affairs, nor the efforts made by another of Our Cardinals as Our Plenipotentiary, nor Our private letters to Our most beloved son, the Illustrious King of Sardinia, have availed anything. For everyone knows the many acts and decrees by which that Government, with the greatest grief and indignation, has openly scorned the solemn agreements entered into with this Apostolic See, and has not hesitated daily to harass priests and religious, and to violate the immunities, liberties, and venerable rights of the Church, to usurp its property, and to inflict grievous injuries upon the Church itself, and upon the Supreme authority of this Holy See, and to treat it with utter contempt. Recently, as you know, a law has been proposed which is entirely contrary to natural, divine, and social law, and which is most harmful to the good of human society, and which openly favors the most pernicious and ruinous errors of Socialism and Communism, in which, among other things, it is proposed to completely abolish almost all monastic and religious families of both sexes, as well as collegiate churches and simple benefices, even those subject to patronage, and to subject their property and revenues to the administration and arbitrary power of the civil authority, and to confiscate them. Furthermore, the same proposed law attributes to the lay authority the power to prescribe the conditions under which the remaining religious families, which have not been completely suppressed, must live." Indeed, words fail Us to express the bitterness with which We are deeply afflicted when We see so many things, which are scarcely credible, and which are utterly deplorable, being perpetrated day by day against the Church, and against its venerable rights, and against the supreme and inviolable authority of this Holy See in that Kingdom, where there are so many excellent Catholics, and where, above all, the piety and religion of the Kings are renowned.

[*Latin ed. p. 153*]

APPENDIX I, V. 153, and in that [place], the Cathedral of the Blessed Peter, against the depredators and successors of sacred things, the profaners, the violators of ecclesiastical power and liberty, and the usurpers of the Holy See, were formerly observed and flourished. But when affairs have been brought to such a state that it is not enough to deplore the damages inflicted upon the Church, unless we apply all care and effort to remove them, therefore, moved and excited by the duties of our office, and in this most ample assembly, we again raise our voice with apostolic liberty, not only to condemn all and each of the acts perpetrated by that Government against the Church and this Holy See, and to avert the necessity of drawing

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the attention of this Holy See to the detriment of its rights and authority, which has been so severely inflicted upon it by those very arms which were divinely entrusted to the sacred ministry; but also to reject and condemn the law recently proposed, and to declare it null and void. Furthermore, we warn with the greatest severity all those, whether those who, in the name of, by reason of, or by order of that Government, have already enacted the decrees now in question, or those who, in any way, favor or apply that law, to consider the special position of affairs, and we order that a particular exposition of the matters be printed and delivered to everyone (1).

Before we attempt to conclude our discourse, we cannot but offer the most heartfelt praise to the Venerable Brothers, Archbishops and Bishops of that same Subalpine Kingdom, by the Apostolic Constitutions, and by the Canons of the sacred Councils, especially the Council of Trent (Session 22, Chapter 11), which are furnished with eighty-six documents, indicating the discussions held between the Subalpine Government and the Holy See since the year 1848; for that Government, from that year, had already begun to undermine the principal rights of the Catholic Church, and publicly showed itself towards the Apostolic See, so as to indicate that it wished to enter into negotiations, to establish new agreements: meanwhile, it gravely violated and abolished the rights of the Church. Several times, envoys were sent by the Holy See, demanding absurd things, and without any agreements being made, or even begun, the Holy See was forced to protest and to defend itself publicly, through diplomatic notes and also through more solemn acts. Under this veil of negotiations, injustices were committed, and the negotiations were brought to nothing. This is amply demonstrated by the documents to which this exposition refers.

[*Latin ed. p. 154*]

154. We commend those men of purpose, mindful of their own dignity and office, who, with the utmost zeal, have never ceased to defend, with singular virtue and constancy, both in word and in writing, the cause of the House of Israel, and to vigorously defend the cause of God and His holy Church. And here, we also commend from the heart those most distinguished laymen, who, residing in that kingdom, animated by excellent Catholic sentiments, and firmly adhering to Us and to this Apostolic See, have openly and publicly defended the sacred rights of the Church, both in word and in writing.

Meanwhile, from you, Venerable Brothers, who have been called to share in our concern, we implore you to never cease offering constant and fervent prayers to God, supported by the powerful patronage of the Immaculate Virgin Mary, that by her heavenly help, she may assist our concerns and endeavors, and that by her almighty power, she may defend the cause of her holy Church, and lead those who are wandering back to the path of truth and justice.

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Indeed, we recalled, especially in the Address which we gave to you on the twenty-second day of January of this year, and which has been published again in print, the most grievous wounds that the Subalpine Government has inflicted, and continues to inflict daily, upon the Catholic Church, its authority, its rights, its sacred ministers, its bishops, and upon the supreme authority and dignity of Our own and this Holy See. In that Address, extolling Our Apostolic voice, we condemned and rejected, and declared utterly null and void, all and each of the decrees issued by that same Government to the detriment of religion, the Church, and this Holy See; and we condemned that most unjust and ruinous law which was then being proposed, by which, among other things, it was intended to completely abolish almost all monastic and religious families of both sexes, as well as collegiate churches and simple benefices, and to subject the revenues and property to the administration and control of civil authority. Nor did we fail to warn the authors and supporters of such great evils, in that same Address, to consider also the spiritual censures and penalties which the Apostolic Constitutions and the decrees of the Ecumenical Councils impose upon those who invade the rights and property of the Church.

« Since often, as you well know, Venerable Brothers, in this very assembly, those who, under the pretext of the Catholic name, glory in residing in the Subalpine Kingdom, the kingdom of most holy religion, are involved in such matters...»

[*Latin ed. p. 155*]

It has happened that, even while enacting a law which declares that the Catholic religion must be the sole religion of the Kingdom, and simultaneously prescribes that all properties must be inviolably protected without exception, the government, after being moved by the most just expostulations of the Venerable Fathers, the leading prelates of the Kingdom, and by our repeated appeals, complaints, and paternal admonitions, might have recalled their minds and wills to better counsels, and ceased from their disruptive actions, and hastened to repair the grievous harm inflicted upon the Church. They gave evidence of this hope through certain promises made to the same bishops, in which we believed it possible to place trust. But, alas, we must lament that the government of Savoy not only did not heed the requests of its own bishops, nor our voices, but also, with greater severity than ever, inflicted injuries upon the Church, and upon our authority and that of this Apostolic See, and openly disregarded our protests and even our paternal admonitions, and did not hesitate to approve, sanction, and promulgate the aforementioned law, albeit in words and in appearance it remained unchanged, but in reality, in its purpose and spirit, it was entirely the same. It is most grievous and distressing to us, Venerable Brothers, that we must, contrary to the gentleness and mildness which we have inherited from nature itself, and which we have learned

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from the eternal Shepherd, and which, therefore, we have always exercised with the greatest willingness, deviate from this course, and adopt measures of severity, from which our paternal heart most detests. However, when we see that all our care, solicitude, long-suffering, and patience, exercised for more than six years in order to repair the ruins of the Church there, have been in vain, and that there is no hope that those who have committed such outrages will be willing to listen to our exhortations, since they, completely disregarding our warnings, do not cease to accumulate injuries, and strive to oppress the Church and its power, rights, and freedom in the Kingdom of Savoy, and to destroy them utterly, we are compelled to employ ecclesiastical severity, lest we seem to neglect our duty and abandon the cause of the Church. And in this course of action, as you well know, we follow the example of illustrious predecessors of ours, Roman Pontiffs, who, distinguished by their sanctity and doctrine, did not hesitate to inflict penalties upon rebellious and contumacious sons of the Church, and upon those who persistently violated and usurped its rights, penalties which are established by the Sacred Canons against those guilty of such crimes. Therefore, in this most important assembly, we once again raise our Apostolic voice, and we denounce the aforementioned law, and all other actions and decrees enacted by the government of Savoy to the detriment of religion, the Church, and our authority and that of this Holy See.

[*Latin ed. p. 156*]

These matters, which were brought to our attention on the twenty-second day of January of the current year, in our Address, and concerning which we spoke with great sorrow in the present document, we again condemn, reject, and declare utterly null and void. Therefore, with incredible sorrow in our heart, we are compelled to declare that all those who, in the Subalpine Kingdom, have dared to approve or ratify the aforementioned decrees and laws contrary to the rights of the Church and of this Holy See, and also those who have commanded, supported, advised, adhered to, or carried out these things, have incurred a greater excommunication, and other ecclesiastical censures and penalties, as prescribed by the Sacred Canons, the Apostolic Constitutions, and the decrees of the general Councils, especially that of Trent (Session 22, Chapter 1).

Although, driven by the unavoidable necessity of fulfilling our office, we are compelled to employ the severity of the Apostolic office; nevertheless, we know and remember that He, our Vicar here on earth, though He may be angered, remembers mercy. Therefore, we raise our eyes to the Lord God, our God, and we ceaselessly implore Him to illuminate with the light of His grace those degenerate sons of His holy Church, of every order, rank, and condition, both laymen and clerics, marked even with the sacred character, whose errors can never be sufficiently corrected, and to restore

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them to a sound mind, for nothing could be more pleasing to our heart, more desirable, or more delightful, than for those who are erring to repent and return to the truth.

And we do not omit, in all our prayers and supplications, to implore the Lord, who is rich in mercy, to never cease to help and console all the Venerable Brothers, the Archbishops and Bishops of the Subalpine Kingdom, who are so constituted in great distress and tribulation, that they, as they have so admirably demonstrated thus far with the glory of their name, may continue with their excellent episcopal virtue, constancy, and prudence, to vigorously defend the cause of religion and the Church, and to diligently watch over the salvation and well-being of their own flock.

And we also offer the most humble and fervent prayers to the most merciful Lord, without interruption, that He may deign to strengthen not only the faithful clergy of that Kingdom, who, for the most part, following the example of their superiors, admirably fulfill their own duties, but also those many distinguished laymen of that Kingdom, who, animated by excellent Catholic sentiments, and who, with all their heart, are devoted to us and to the Chair of Peter, and who greatly rejoice in contributing their efforts to the defense of the rights of the Church.

[*Latin ed. p. 157*]

iv. 157. To this, the most vehement enemies of the Church of Christ are joined. To you, Venerable Brothers, we send these letters in this great turmoil of events, so that we may seek some solace for our sorrow. And on this occasion, we also urge you, that, according to your well-known piety, and your outstanding devotion to the Apostolic See and its freedom, you may strive to accomplish that which, as we read, was once prescribed to Aaron, the highest priest of the Hebrews: "Take the censer, and put fire from the altar upon it, and carry it quickly to the people, that you may pray for them; for the wrath of the Lord has gone forth, and the plague has raged." (Numbers, chapter XVI).

Also, we urge you to pour forth your prayers as did those holy brothers, Moses and Aaron, who said, "O mighty God of all the spirits of all flesh, will you not spare them, if they have sinned against all your people?" (Numbers, chapter XVI).

Furthermore, Venerable Brothers, we send you these letters, from which we hope to receive no small comfort, since we are confident that you will abundantly respond to our desires and concerns. Moreover, we openly declare that, strengthened by the grace from on high, which God has granted to us through the prayers of the faithful, we will endure any hardship, any bitterness, before we abandon in any way the Apostolic office, and we will admit nothing against the sanctity of the oath which we have taken, even

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if it were permitted.

[*Latin ed. p. 158*]

158 APPEN) X We, with the greatest joy and happiness, ascend to this Supreme Seat of the Princes of the Apostles, this fortress and bulwark of the Catholic faith, if it please God. In fulfilling your pastoral duties, we implore you, Venerable Brothers, to receive our Apostolic Blessing, which, with heavenly favor, we impart to you and to your flock. "Given in Rome, near Saint Peter's, on the 18th of June, in the fourteenth year of Our Pontificate."

ALLOCUTION GIVEN IN SECRET CONSISTORY ON JUNE 20, 1859.

Venerable Brothers:

To the greatest sorrow, we are deeply grieved by the immense suffering that has befallen all, due to the war between Catholic nations. Furthermore, we lament the grievous events and disturbances that have recently occurred in some provinces of Our Pontifical dominion, perpetrated by the wicked actions of impious men, and which are utterly sacrilegious.

We must, Venerable Brothers, speak with sorrow of the heinous and treacherous conspiracy against Our sacred and legitimate authority, and against the civil principality of this Holy See, which certain men residing in Our provinces have plotted and fomented, both through clandestine and wicked gatherings, through the most shameful councils with men from neighboring regions, through fraudulent and calumnious publications, through the acquisition and deployment of foreign arms, and through all other forms of deceit and trickery.

We cannot but be deeply grieved that such a conspiracy was first hatched in Our city of Bologna, which, for almost two years, has shown its veneration for Us and for this Apostolic See, and has not failed to testify to it, having been adorned with the benefits of Our paternal benevolence and generosity when we were there.

Indeed, in Bologna, on the twelfth of this month, after the unexpected departure of Austrian troops, conspirators, with audacious boldness, and trampling upon all divine and human rights, and with the most unseemly audacity, did not hesitate to incite a riot, and to arm, compel, and gather a city guard, and to approach the residence of Our Cardinal Legate, and there, having taken the Pontifical insignia, to raise and display the banner of rebellion in their place, to the great indignation and uproar of many honest citizens, who did not hesitate to disapprove of such a deed, and to show their support for Us and for Our Pontifical government.

From these very conspirators, this plot was reported to Our Cardinal Legate, who, in the performance of his duties, did not fail to oppose all these wicked acts, and to defend and protect Our dignity and the rights of

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this Holy See.

[*Latin ed. p. 159*]

Yesterday, they became rebels against decency, so that they would not fear to change the government, and they petitioned the King of Sardinia for a dictatorship, and for this reason, they sent their representatives to the same King. Therefore, since Our Legate could not prevent such outrageous acts, nor could he endure them for much longer, he issued a solemn protest, both verbally and in writing, against all that had been done by factious men against Our rights and the rights of this Holy See, and, compelled to leave Bologna, he went to Ferrara. "What was done in Bologna, those same scandalous men, without hesitation, acted in a similar criminal manner in Ravenna, Perugia, and elsewhere, causing great sorrow to all, and they did not fear that their actions could be suppressed and thwarted by Our Pontifical forces, since those forces, being few in number, could scarcely resist their fury and audacity. Therefore, in those same cities, the authority of all divine and human laws was trampled upon by traitors, Our supreme civil power and the power of this Holy See were attacked, the banners of rebellion were raised, the legitimate Pontifical government was overthrown, a dictatorship of the King of Sardinia was requested, Our Delegate was publicly protested against and forced to depart, and many other rebellious acts were committed."

Indeed, no one is ignorant of how the enemies of the civil authority of the Apostolic See always look for opportunities, and what they desire, what they yearn for, and what they hope for. Everyone knows that it was by a singular decree of Divine Providence that, amidst the great multitude and variety of temporal princes, the Church of Rome also did not have any temporal dominion subject to anyone, so that the Roman Pontiff, the supreme pastor of the entire Church, would never be subject to any prince, but would receive from Christ the Lord the supreme power, authority, and jurisdiction to feed and govern the entire flock of Christ throughout the world, and to exercise it freely, and at the same time, to spread the divine religion more and more each day, and to provide for the various needs of the faithful, and to offer timely assistance to those in distress, and to accomplish all other good things that He Himself knew to be necessary for the greater benefit of the entire Christian republic. Therefore, the most implacable enemies of the temporal dominion of the Church of Rome seek to invade, undermine, and destroy the civil authority of the same Church, the principate of the Roman Pontiff, which, by a certain divine dispensation of things, and by ancient possession for so many centuries, and by every other just and good right, has always been considered and defended as a sacred and inviolable patrimony of Saint Peter, and is used by the common consent of all peoples and princes, even those who are not Catholic, so that,

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the Church of Rome being deprived of its patrimony,

[*Latin ed. p. 160*]

160 APPENDIX IV. Those who, by their actions, diminish the dignity and majesty of the Apostolic See, and of the Roman Pontiff, and inflict the greatest damages upon the most holy religion, and bring about a most grievous war, and, if it could ever happen, utterly subvert the religion itself, have always aimed at, and do now aim at, such things through their most wicked designs, endeavors, and deceptions, as is clearly and openly demonstrated by the long and most sorrowful experience of all. "Wherefore, since We are bound by the office of Our Apostolic ministry, and by a solemn oath, to watch over the safety of the religion with the utmost vigilance, and to safeguard entirely and inviolably the rights and possessions of the Roman Church, and to assert and defend the liberty of this Holy See, which is plainly connected with the welfare of the entire Church, and therefore to defend the very principality by which the Roman Pontiffs have been endowed by Divine Providence for the free exercise of the sacred ministry throughout the world, and to transmit that principality entire and inviolate to Our Successors, We cannot but vehemently condemn and detest the impious and nefarious acts of those rebellious subjects, and we must firmly oppose them." "And therefore, after having, through the declaration of Our Cardinal Secretary of State sent to all Orators, Ministers, and officials of foreign nations with Us and with this Holy See, condemned and detested these very rebellious acts, We now, in this most ample assembly, Venerable Brothers, raising Our voice with all the ardor of Our spirit, protest against all those things which those rebels have dared to do in the aforementioned places, and We condemn, reject, annul, and abolish, with Our supreme authority, all and each of the acts, whether done at Bologna, or at Ravenna, or at Perugia, or elsewhere, by those rebels against Our sacred and legitimate authority, and against the principality of this Holy See, in any way whatsoever, and We declare those same acts to be utterly null, illegitimate, and sacrilegious, and We decree it. Furthermore, We remind all that the greater excommunication, and other ecclesiastical penalties and censures, prescribed by the sacred Canons, the Apostolic Constitutions, and the decrees of the General Councils, especially the Council of Trent (Session 22, chapter 11, concerning Reform), are to be incurred without any declaration, by all those who shall dare in any way to seek the temporal power of the Roman Pontiff: and therefore We declare that all those have fallen into such penalties who, at Bologna, at Ravenna, at Perugia, and elsewhere, have dared to violate, disturb, and usurp Our civil authority, and the authority and jurisdiction of this Holy See, and the patrimony of the Blessed Peter,

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by deed, by counsel, by consent, and by any other means whatsoever.

[*Latin ed. p. 161*]

ENCYCLICAL LETTER ISSUED ON JANUARY 19, 1860.

Since, by reason of Our office, We are compelled, with no small sorrow of mind, to declare and to communicate to the VENERABLE BROTHERS, PATRIARCHS, PRIMATES, ARCHBISHOPS, BISHOPS, and other ORDINARY PASTORS of places, that We earnestly and repeatedly implore the grace and communion with the APOSTOLIC SEE, so that the Most Merciful Father may, by His omnipotent power, grant that the most esteemed Brothers may, as soon as possible, bring forth the light of day, so that even Our sons may recover their senses, and, having been again received with joy into the paternal embrace, may, with all disturbances removed, restore order and tranquility throughout Our entire jurisdiction.

Indeed, Venerable Brothers, We cannot, in any words, express how great a comfort, how much joy, it will be for Us to see that the princes of Europe, as before, so also at this time, show their faith, piety, and obedience towards Us and this Apostolic See, and that, with diligence and constancy, they defend and uphold the temporal interests of Our Holy See, and that, in their studies and councils, they consult with those whose interests are most concerned, so that, with full freedom, the Catholic princes may enjoy the benefits of their position. This hope is increased, because We know that the Gallic legions residing in Italy will defend and uphold the same, and will diligently serve.

For, as We learned from Our Encyclical Letters of June 18 of the past year, which We sent to you, and from Our two Consistorial Allocutions, with great sorrow of mind, you were made aware of the grievous damages, by which the civil affairs of Italy were afflicted, and you understood that the Gallic troops residing in Italy, contrary to what Our most beloved Son, the Emperor of the French, declared, had not only not acted against the legitimate princes of Italy, and against this Holy See and the dominion of this Holy See, but, on the contrary, were immediately obedient to Our wishes and concerns, and, without any delay, you hastened to offer prayers in your dioceses.

[*Latin ed. p. 162*]

APPENDIX IV. Hence, not only through the most obedient and most loving letters given to Us, but also through those pastoral letters, and other religious and learned writings published for the public, your episcopal voice, raising the great praise of your order and name, and strenuously defending the cause of our most holy religion and justice, vehemently condemned the sacrilegious acts committed against the civil authority of the

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Church of Rome. And while constantly defending this authority, you have rejoiced in proclaiming and teaching that it was given to the Roman Pontiff by the singular counsel of that divine Providence which governs and directs all things, so that he, being subject to no civil power, may freely and without impediment exercise throughout the entire world the supreme office of the apostolic ministry, which was divinely entrusted to him by Christ the Lord. And to Us, most beloved sons of the Catholic Church, imbued with your teachings and excited by your excellent example, have most earnestly testified to Us these same sentiments, and continue to do so. For from almost all regions of the entire Catholic world, we have received countless letters, from men of every dignity, order, grade, and condition, both ecclesiastical and lay, many of them signed by thousands of Catholics, in which they clearly confirm their filial devotion and veneration for Us, and, vehemently detesting the rebellion and the audacity committed in some of Our provinces, they insist that the patrimony of Blessed Peter must be entirely preserved and kept inviolate, and defended from all injury; and among these, not a few have asserted this very thing, with appropriate writings, learnedly and wisely. These excellent and faithful expressions of yours have so moved Us that we could not help but exclaim joyfully, "Blessed be God and Father of our Lord Jesus Christ, Father of mercies and God of all consolation, who comforts us in all our tribulations." For nothing could be more pleasing to Us, amidst the most serious anxieties that weigh upon Us, nothing more delightful, nothing more desirable, than to see how all of you, Venerable Brothers, are animated and inflamed with such a harmonious and admirable zeal for defending the rights of this Holy See, and with what excellent willingness the faithful are entrusted to your care in this very matter. And through you, you can easily perceive how rightly and with the best of reasons Our paternal benevolence towards you, and towards the Catholics themselves, increases day by day.

While this wonderful zeal and love of yours, and of the faithful, towards Us and this Holy See, soothed Our sorrow, a new cause of sadness has arisen. Therefore, we write this letter to you, so that you may understand the state of Our minds concerning this matter of such importance.

[*Latin ed. p. 163*]

xiv. 163. We have, above all, repeatedly declared to you that we cannot, by any means, consent to this, and recently, as many of you know, we have learned that Our own intentions are misunderstood, and that, through the Parisian newspapers, which are widely circulated among the French, a false report has been spread, alleging that the Emperor, in a letter addressed to Our Holy See, has promised to restore Emilia to the rebels, and that, through this letter, he has encouraged other provinces to revolt against Us. We have, moreover, observed that, in the Parisian Congress, we clearly and repeatedly declared that we could not, in any way, consent to this, and that

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we could not abandon the temporal jurisdiction of this Holy See, nor the jurisdiction of Our Pontificate in Emilia, which has been unjustly seized by a wicked rebellion, without causing great harm. By this letter, we swear, before the Emperor, that we will not violate any of the obligations to which we are bound, that we will not abandon the provinces of Our Pontificate, that we will not cause harm to Catholics, and that we will finally uphold the rights, not only of the Princes of Italy who have been unjustly deprived of their possessions, but also of all the Princes of Christendom, who cannot remain indifferent to such a grievous injustice.

"Each and every one of you, Venerable Brothers, understands perfectly well that, mindful of Our most sacred office, we could not remain silent when such reports were spread. Therefore, without delay, we hastened to write to the aforementioned Emperor, clearly and openly declaring, with all the freedom that Our Apostolic dignity allows, that we could, in no way, approve of his intentions, because insuperable difficulties arise from Our own dignity, and from the dignity of this Holy See, and from Our sacred character, and from the rights of this See, which belong not to any royal family, but to all Catholics, and to which we must adhere in every way. And since the Most Serene Emperor considered that these provinces should be abandoned by Us, because of the repeated uprisings that have been stirred up there, we appropriately responded that such an argument is utterly invalid, because..."

[*Latin ed. p. 164*]

164. APPEN: XIV. He argues that censure is of no value, since similar disturbances have frequently occurred in various regions of Europe, and no one can legitimately draw from this the conclusion that civil authorities should be weakened. Furthermore, we did not fail to explain to the same Emperor that our first letter, sent to us before the Italian war, was entirely different from his most recent letters, and that it brought us consolation, not affliction. However, since we feared that certain words in the imperial letter, as published in the aforementioned newspapers, might lead to the belief that our province of Emilia was already to be considered as separated from our Pontifical jurisdiction, we therefore implored His Majesty, in the name of the Church, and also for the benefit and utility of His Majesty himself, to ensure that such a fear would completely vanish. And with that paternal charity, to which we must always look in order to promote the eternal salvation of all, we reminded him that everyone must, at some point, give an account of everything before the tribunal of Christ, and undergo the most severe judgment; and therefore, everyone must take care to experience the effects of mercy rather than justice. "These are the things, among others, that we responded to the most powerful Emperor of the Gauls, which we believe it is absolutely necessary to communicate to you, Venerable Brothers, so that you, above all, and the entire Catholic world

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may more and more recognize that, with God's help, we strive fearlessly to fulfill the duties of our most serious office, and that we leave nothing undone in order to defend the cause of religion and justice, and to steadfastly maintain and protect the civil principality of the Roman Church, and its temporal possessions and rights, which belong to the entire Catholic world, and also to consider the just causes of other princes. And relying on the divine help of Him who said: "In the world you will have tribulation, but be of good cheer, for I have overcome the world" (John 16:33), and "Blessed are those who are persecuted for righteousness' sake" (Matthew 5:10), we are ready to follow in the footsteps of our illustrious predecessors, to emulate their examples, and to endure all hardships and trials, and even to lay down our lives, before abandoning in any way the cause of God, the Church, and justice. But you can easily imagine, Venerable Brothers, how deeply we are grieved to see how our most holy religion is being afflicted by a most terrible war, with great detriment to souls, and how the Church, and this Holy See, are being subjected to such great turmoil. And you can also easily understand how much we are distressed, knowing how much damage is being done to souls in our provinces, where, especially through writings published for the public, piety, religion, faith, and moral integrity are being miserably undermined day by day. Therefore, Venerable

[*Latin ed. p. 165*]

X iv. 165 Brothers, you have been called to serve in our ministry and in the prayers of the faithful, and you, Venerable Brothers, have so generously supported, with faith, constancy, and virtue, the cause of the Immaculate and Most Holy Mother of God, the Virgin Mary, who is the most loving Mother and most faithful hope of us all, the protector and support of the Church, and whose faithful care is more powerful with God than anything else. We also implore the support of the Blessed Apostle Peter, whom the Lord Christ established as the foundation of His Church, against whom the gates of hell shall not prevail, and of his co-apostle Paul, and of all the Saints of the Catholic Church, who reign with Christ in heaven. We have no doubt, Venerable Brothers, that, because of your outstanding devotion and priestly zeal, with which you so diligently serve, you will most readily and studiously fulfill our requests. And meanwhile, let the most heartfelt Apostolic Blessing, which we offer from the bottom of our heart and which is joined with our sincere wish for your true happiness, be a pledge of our love for you, Venerable Brothers, and for all the clergy and laity under your care. May God, through His heavenly grace, be pleased to turn away all enemies of the Church and of this Apostolic See, and may He, with His almighty power, bring them to the path of truth, justice, and salvation. Given in Rome, at Saint Peter's, on the 19th of January, in the year 1860.

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In the fourth year of Our Pontificate.

[*Latin ed. p. 166*]

166 APOSTOLIC LETTERS PROMULGATED ON MARCH 26, 1860, BY WHICH INVADERS AND USURPERS OF THE PAPAL DOMAIN ARE EXCOMMUNICATED *excommunicatio* *in vitæ et partium*, so that they may never be able to exercise any office in the universal Church, and so that, as they are declared to be, they may be excommunicated anew, lest the work be hindered. "It is necessary for the entire Church to be united." It is easily understood how such a Roman principality, although by its very nature it deals with temporal matters, may nevertheless be endowed with a sacred character, "for the Catholic Church, founded and instituted by Christ, is bound to the Eternal Lord by a bond so close that it is joined to the most essential reasons of the Christian religion, forming a perfect society. Nevertheless, this does not prevent it from perfecting all those things which also contribute to the happiness of the people, and from carrying out its divine institution with such freedom that it is not subject to any civil power. And since, as was fitting, it needed protection to freely carry out its work, it was necessary for it to have defenses that were suited to the conditions and needs of the times, as history clearly testifies. Moreover, since the Principality, which we are discussing, was created by the divine providence for the good and benefit of the Church, it is not surprising that the enemies of the Church itself have often sought to undermine and weaken it with manifold plots and attempts; but in these nefarious endeavors, with God constantly helping His Church, their efforts have always failed. Indeed, the whole world knows how, in these grievous and troubled times, the abominable enemies of the Catholic Church and of this Apostolic See, in their endeavors, have spread lies and hypocrisy, trampling upon divine and human rights, and how they have wickedly sought to deprive the Catholic world of its civil rights, and how they strive to achieve this."

[*Latin ed. p. 167*]

Indeed, as in other instances, we lament with great sorrow and indignation the aggression, the outrage, and the immoral acts committed on the twenty-second of January, 1855, all of which are based on falsehoods, and are equally false and violent. After having been cleverly led astray by pernicious principles, our just and popular movements concerning this matter have been maliciously condemned by the very Government itself, as we have been informed. It is with such audacity that progress is made, that they dare to incite the people to rebellion against the universal Church and against legitimate Princes, who have not abstained from injustice; a civil rebellion which the Apostle clearly and openly condemns. For he declares: "Let every soul be subject to the higher powers; because the power is not of itself, but of God: wherefore they who resist the power, resist the ordinance

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of God." And we have observed that these powers, which are ordained by God, must be defended and preserved.

First, from the manifest signs of aggression, we note that, when in the Parisian Assembly of 1856, a certain part of the Subalpine Government undertook hostile actions against the temporal authority of the Church, and disrespected its venerable authority, they proceeded with such impudence that they did not cease to openly proclaim their contempt for it.

And it is most deplorable that, even among those who, as sons of the Catholic Church, ought to defend and uphold its authority, there are some who, in order to gain power over the people, do not hesitate to undermine that authority by all means possible. We are informed that the instigators of these machinations have a significant part to play, lavishly spending money, providing arms, spreading vile writings and newspapers, and employing every kind of fraud. We know from those who, in the same Government's legation in Rome, have been subjected to such damage and detriment to the Church and its rights, that they abused their office with a complete disregard for justice and honesty. In the Consistory, we spoke at length about these matters.

(1) 1 Peter 2:13-14.

[*Latin ed. p. 168*]

168 APPENDIX XIV. Concerning the nefarious attempts to undermine the governance of Our Pontificate. Subsequently, in certain provinces of Our dominion, which had previously been secretly negotiated, a sedition arose, and immediately a Royal Dictatorship was proclaimed, and at once commissioners were appointed by the Piedmontese government to administer those provinces, who, under another name, would govern those provinces. While these things were being done, mindful of the gravity of Our office, We did not fail to express Our profound sorrow in two Allocutions delivered on June 20th and September 26th of the preceding year, concerning the violation of the civil authority of this Holy See, and to seriously warn the perpetrators of the punishments and penalties that would be inflicted upon them by canonical sanctions, into which they had, therefore, miserably fallen. It was to be hoped that the authors of this transgression would abandon their unjust purpose through Our repeated warnings and complaints; especially since all the Catholic prelates of the world, and the faithful of every order, dignity, and condition, entrusted with their care, had joined their voices to Ours in expressing their concern, and had eagerly undertaken to defend the cause of this Apostolic See and of the universal Church and justice, fully understanding how much the civil authority in question is essential to the free jurisdiction of the Supreme Pontiff. But (we say, trembling with horror!) the Piedmontese government not only disregarded Our warnings, complaints, and ecclesiastical penalties, but also, in its persistent

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wickedness, through popular suffrage, money, threats, terror, and other cunning devices contrary to all justice, did not hesitate to invade, occupy, and bring the aforementioned provinces under its power and domination. Words fail to adequately condemn such a heinous act, in which so many and such great crimes are committed. Indeed, it is a sacrilege to admit that, at the same time, foreign rights are violated, contrary to natural and divine law, that all reason of justice is subverted, and that the foundations of every civil authority and of the entire human society are utterly overturned. Therefore, on the one hand, we understand with the greatest sorrow that new complaints will be futile with those who, like deaf vipers, have blocked their ears and have not yet been moved by Our warnings and complaints; on the other hand, we deeply feel what is required of Us in this great injustice, for the sake of this Church and of this Apostolic See, and for the sake of the entire Catholic world, so vehemently attacked by the actions of wicked men; therefore, We must be careful not to appear to neglect the duties of Our most serious office for too long. Indeed, the circumstances compel Us to follow in the footsteps of Our illustrious predecessors, and to exercise that supreme authority which has been divinely granted to Us, so that We may, as is fitting, both absolve and bind; that is, that due measures may be taken.

[*Latin ed. p. 169*]

"Let the severity of this [edict] serve as an example to others." Therefore, after imploring the light of the Holy Spirit through private and public prayers, after obtaining the counsel of the Most Reverend Fathers, Members of the Congregation of Cardinals of the Holy Roman Church, by the authority of Almighty God and of the Most Holy Apostles Peter and Paul, and by Our own renewed declaration, We declare that all those who have committed, or have ordered, incited, aided, conspired with, adhered to, or in any way procured the commission of, the nefarious rebellion and usurpation, occupation, invasion, and other similar acts, of which We spoke in Our aforementioned Allocutions of June 20th and September 26th of the past year, shall incur the Greater Excommunication, and other ecclesiastical censures and penalties, as prescribed by the Holy Canons, the Apostolic Constitutions, and the Decrees of the General Councils, especially that of Trent (Session XX, Chapter XI, concerning reform); and if necessary, We excommunicate and anathematize them anew, declaring also that they shall likewise incur the penalty of the loss of all privileges, graces, and indulgences, granted to them by Us, or by Our Predecessors, the Roman Pontiffs, in any manner whatsoever; and that they cannot be absolved or released from such censures by anyone, except by Us, or by the Roman Pontiff for the time being (except in the hour of death, and then only when they have again fallen into those same censures upon their recovery); and furthermore, that those who obtain the benefit of absolution shall be unable

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to retain it, unless they publicly retract, revoke, annul, and abolish all that has been attempted in the manner described above, and fully and effectively restore all things to their former state, or unless they render due and fitting satisfaction to the Church, to Us, and to this Holy See, concerning the aforementioned matters. Therefore, We declare that all of them, even those deserving of special mention, as well as their successors in office, are not, and shall not be, in any way exempt from the obligation to make, through themselves, the retraction, revocation, annulment, and abolition of all that has been attempted as described above, or to render real and effective satisfaction to the Church, to Us, and to this Holy See, concerning the aforementioned matters, in order that they may be able to obtain the benefit of absolution; and by these present words, We decree and declare accordingly.

"While We, with a heavy heart, fulfill this part of Our office, compelled by sad necessity, We do not forget that We are acting here on earth as vicars of Him who does not will that any should perish, but that all should come to repentance."

[*Latin ed. p. 170*]

170. "For He came to seek and to save that which was lost." Therefore, with the most fervent prayers, we implore the mercy of Himself, without ceasing, and we expose [our concerns], that He may be pleased to illuminate with the light of His divine grace all those upon whom we have been compelled to impose the severity of ecclesiastical penalties, and that, by His almighty power, He may bring them back from the path of perdition to the way of salvation.

iv. "In the year 1860, on the third day of March, the 29th, by the divine providence of Our Most Holy Father and Lord, Pope Pius the Ninth, these present Apostolic Letters were affixed and published at the doors of the Basilica of the Lateran and the Vatican, at the Apostolic Chancery, and at the Great Curia Innocentiana, and in the Field of Flowers [Campo di Fiori] by Aloysius Serafini, Apostolic Secretary."

"Decreeing, etc. (followed by extensive clauses of derogation, etc.). Philip Ossani, Master of the Chancery."

"Now, since it is well known that these present Letters cannot be safely published everywhere, and especially in those places where it is most necessary, we decree that they, or their copies, be affixed and published at the doors of the Church of the Lateran, and of the Basilica of the Prince of the Apostles, as well as at the Apostolic Chancery, the General Curia in Monte Citatorio, and in the Field of Flowers in the City, as is customary, and that all and each of those to whom they pertain shall observe and obey them as if they had been notified individually and personally to each of them."

"We decree that copies, or exemplars, even printed, of these Letters be..."

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"Given at Rome, near St. Peter, under the Fisherman's ring, on the 26th of March, in the year 1860."

"In the fourteenth year of Our Pontificate."

"Place for the seal: PIUS PP. IX."

ADDRESS GIVEN IN SECRET CONSISTORY ON SEPTEMBER 28, 1860.

"Venerable Brothers."

"We are compelled, with incredible sorrow and grief, to deplore and detest once again the new and, before this day, unheard-of acts of audacity committed by the Piedmontese Government against Us, this Apostolic See, and the Catholic Church. As you know, this Government, abusing its victory, which it obtained with the help of the resources of a great and warlike nation, has extended its kingdom throughout Italy, in defiance of all divine and human laws, inciting the people to rebellion and unjustly expelling legitimate Princes from their own domains. Furthermore, with the most unjust and utterly sacrilegious audacity, it has invaded and usurped several provinces of Our Pontifical States in Emilia."

[*Latin ed. p. 171*]

ix iv. He ceaselessly clamors against this impious usurpation, and the same Government has determined to claim to itself other provinces of this Holy See, located in Piceno, Umbria, and the Patrimony. But when he saw that the people of those provinces enjoyed complete tranquility, and remained faithfully attached to Us, and that they could not be alienated or torn away from the legitimate authority of Ours and of this Holy See, even with lavishly distributed money, and with other wicked deceptions, therefore he sent into those provinces a band of wicked men, who stirred up disturbances and sedition there, and then he sent a large army, which subjected those same provinces with hostile force and for years. "You know very well, Venerable Brothers, the impudent letters from the Subalpine Government, written to Our Cardinal concerning public affairs, in which they did not blush to announce that they had given orders to their troops to occupy the aforementioned provinces of Ours, unless foreigners were dismissed from the small army attached to Us, which had otherwise been formed to preserve the tranquility of the Pontifical territories and of its people. Nor are you unaware that, at almost the same time that these letters were received, those same provinces were occupied by Subalpine troops. Indeed, no one can fail to be deeply moved, and to be greatly indignant, considering the false accusations, and the various calumnies and insults, with which the same Government does not hesitate to conceal its own hostile and impious aggression against the civil authority of the Roman Church, and to attack Our Government. For who would not be utterly astonished to

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hear Our Government being reproached because foreigners were attached to Our army, when everyone knows that no legitimate Government has ever been denied the right to enlist foreigners into its ranks? This right, indeed, belongs in a particular way to Our Government and to that of this Holy See, since the Roman Pontiff, as the common father of all Catholics, could not but gladly receive all those Catholics who, moved by a love of religion, wish to serve in the Pontifical armies, and to contribute to the defense of the Church. And here we believe it is important to note that this influx of foreign Catholics was especially provoked by the wickedness of those who attacked the civil authority of this Holy See. No one is ignorant of the indignation and the grief with which the entire Catholic world was moved when it learned that such an impious and unjust aggression had been committed against the civil authority of this Apostolic See. And as a result, many from various regions of the Christian world spontaneously and with great eagerness flocked to Our Pontifical jurisdiction, and offered their services to Our army, so that Our, and that of this Holy See, and...

[*Latin ed. p. 172*]

172 APPEI)TX iv. The rights of the Church should be vigorously defended. However, the Subalpine Government does not hesitate to unjustly slander our soldiers by falsely accusing them of being mercenaries, when, in fact, many of our soldiers, both native and foreign-born, are of noble lineage, and are distinguished by the names of illustrious families, and are motivated solely by love of religion, and have wished to serve in our ranks without any compensation. Furthermore, it is well known that the Subalpine Government is aware of the faith and integrity of our army, since it has witnessed that all the deceitful schemes employed to corrupt our soldiers have been in vain. Therefore, why should we delay in repelling the false accusation unjustly leveled against our troops, when the accusers cannot adduce any clear proof; rather, such a charge can be turned against them, as is clearly demonstrated by the cruel proclamations of the leaders of the Subalpine army. "It should be noted that our Government had no reason to suspect such a hostile incursion, since the Subalpine forces themselves had asserted that they had approached our territory, not with the intention of invading, but rather to create disturbances. Therefore, the supreme commander of our troops could not have imagined that he would have to fight against the Subalpine army. But when, contrary to all expectations, events took a disastrous turn, he recognized the hostile incursion made by that army, which was certainly superior in number and strength, and he prudently decided to take refuge in Ancona, a fortified city, so that our soldiers would not be exposed to such imminent danger. When, however, the advancing enemy forces were intercepted on the road, he was forced to engage them in battle in order to open a path for himself and his soldiers." Moreover, while we offer deserved praise to the aforementioned

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commander of our troops, and to those who authorized and served in it, who, unexpectedly attacked by a hostile incursion, bravely fought for the cause of God, the Church, this Apostolic See, and justice, despite being far inferior in strength, we can scarcely restrain our tears, knowing how many valiant soldiers, and especially young men, have perished in this unjust and cruel invasion, who, with a truly religious and noble spirit, rushed to defend the civil authority of the Roman Church. Furthermore, we are deeply moved by the grief that is felt by their families. We wish that we could wipe away their tears with our words. We are confident, however, that they will receive great consolation and comfort from the honorable mention that we will make of their deceased sons and relatives, deservedly, for the splendid and outstanding example of their faith, piety, and love for us, and for this Holy See, which they demonstrated to the Christian world, along with the immortal glory of their names. And

[*Latin ed. p. 173*]

iv. 173 "Indeed, they conspire to offend virtue, to destroy, and to mock the most sacred mysteries, precepts, and institutions of our divine religion, and to despise the sacred ministers, rites, and ceremonies, to remove all reason of justice, and thus to undermine and overthrow the foundations of both religion and civil society!" In this most unjust, hostile, and horrendous aggression and occupation by the King of Sardinia and his Government against Our civil and ecclesiastical authority and that of this Holy See, in violation of all laws of justice and the universal law of nations, mindful of Our office, in this most ample assembly of Yours, and before the entire Catholic world, We raise Our voice anew and with all force, and We condemn and utterly reject all the nefarious and sacrilegious acts of that King and Government, and We declare, decree, and pronounce all their acts to be null and void. We reaffirm, and We shall never cease to reaffirm, the integrity of the civil authority of Rome, and its rights, which belong to all Catholics. "We cannot conceal from you, Venerable Brothers, that We are deeply grieved by the lack of assistance in this most heinous and never sufficiently reprehensible aggression, and by the various difficulties that still exist. Indeed, you are aware of the repeated declarations We have received from one of the most powerful princes of Europe. But "We certainly hope that those who have died gloriously for the cause of the Church may attain that eternal peace and happiness which We have implored from God Almighty, and which We shall never cease to implore. In this place, We also offer due praise to Our beloved sons, the presidents of the provinces, especially those of Urbino-Pesaro and Spoleto, who have diligently and steadfastly performed their duties in this most sorrowful period of time." Truly, Venerable Brothers, who could ever bear the outrageous impudence and hypocrisy with which the most wicked invaders dare to assert in their programs that they are going to restore the principles of moral order in Our

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provinces and in those of Italy? And this is asserted by those who have long waged war against the Catholic Church and its ministers, and who have dared to despise ecclesiastical laws and regulations, and who have dared to imprison illustrious Cardinals, Bishops, and most distinguished men of both the clergy, to expel religious families from their monasteries, to plunder the goods of the Church, and to devastate the civil authority of this Holy See. Indeed, the principles of moral order will be restored by those who establish public schools of every false doctrine, and brothels, and who, with abominable writings and theatrical performances, undermine modesty, chastity, and decency.

[*Latin ed. p. 174*]

174. "However, while we await the effects of these matters for a long time, we cannot but be greatly angered and disturbed when we see the authors and supporters of this heinous usurpation boldly and insolently persisting and progressing in their wicked design, as if they are certain that no one will truly oppose them." This perversity has reached such a point that hostile Alpine armies have been brought to the walls of this, our beloved city, and whatever communication there may be, public and private affairs are brought into danger, trade routes are interrupted, and, which is the most serious matter, the Supreme Pontiff of the entire Church is placed in distress, making it difficult for him to consult on the affairs of the Church itself, because the way of communicating with various parts of the world is greatly restricted. Therefore, in these great difficulties and in this great crisis, you, Venerable Brothers, can easily understand that we are almost compelled by a sad necessity to consider taking appropriate measures to defend our dignity."

In the meantime, we cannot refrain from deploring the pernicious and harmful principle, which some governments have recently proclaimed and applied, under the name of "non-intervention," even when an unjust aggression is committed by one government against another; so that a certain impunity and license seems to be established to seize and destroy the rights, properties, and very territories of others, contrary to divine and human laws; as we sadly see happening in this time. And it is truly astonishing that one Alpine government is allowed to disregard and violate such a principle, while we see it, with all of Europe watching, invading foreign territories and driving out legitimate rulers; from which follows the pernicious absurdity that foreign intervention is admitted only to incite and foment rebellion.

From this, a timely opportunity arises for us to urge all the princes of Europe to seriously consider, with the gravity and wisdom that befits them, what evils are accumulating in this deplorable situation that we lament. For it is a matter of a grave violation that has been unjustly perpetrated against the universal law of nations, and which, if not completely restrained, will

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allow no legitimate right to stand firm or be secure. It is a matter of the principle of rebellion, to which the Alpine government shamefully serves, and from which it is easy to understand how much harm is inflicted on any government each day, and how much ruin is brought upon the entire civil society, when such a fatal opening is made to Communism. It is a matter of violated solemn conventions, which, as others in Europe—"

[*Latin ed. p. 175*]

"Thus, they also entirely demand that the integrity of the civil jurisdiction of the Holy See be preserved and protected. This concerns the violent seizure of that principality, which was granted to the Roman Pontiff by the singular counsel of divine providence, so that he might exercise his apostolic ministry with complete freedom throughout the entire Church. This freedom, indeed, ought to be of the greatest concern to all princes, so that the Pope himself is not subjected to the influence of any civil power, and so that the spiritual tranquility of Catholics living within the domains of these same princes is also safeguarded. Therefore, it must be understood by all supreme princes that our cause is plainly connected with theirs, and that they will offer their aid to us, looking to the safety of our rights as well as their own. Therefore, we earnestly exhort and implore them, with the greatest confidence, to be willing to offer us their assistance, according to their own condition and opportunity. We do not doubt that, especially Catholic princes and peoples, will most diligently offer their care and efforts, so that, for the common good of the entire flock of the Lord, they will hasten and strive to help, defend, and protect the Father and Pastor, who is being attacked with murderous weapons by degenerate sons. " Since, moreover, you know, Venerable Brothers, that all our hope must be placed in God; who is our help and refuge in times of trouble, and who wounds and heals, strikes and restores, mortifies and vivifies, brings down to the lower parts of the earth and raises up again; therefore, with all faith and humility of heart, we do not cease to pour forth fervent and constant prayers to Him, using first and foremost the most efficacious intercession of the Immaculate and Most Holy Virgin Mary, and the support of the Blessed Peter and Paul, that He, working power in His arm, may crush the pride of His enemies, and may conquer those who attack us, and may humble and destroy all enemies of His holy Church; and that, through the power of His almighty grace, the hearts of all who are perverted may repent, and that the holy Church may rejoice in their most desired conversion."

ALLOCUTION GIVEN IN SECRET CONSISTORY ON MARCH 18, 1861.

Venerable Brothers:

"We have long observed, Venerable Brothers, how bitterly the society of

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this world is embroiled in a conflict between opposing principles: truth and error, virtue and vice, light and darkness, especially in this miserable age of ours. For some, on the one hand, defend certain tenets of what they call modern civilization, while others, on the other hand, defend the rights of our most holy religion and justice. And the former demand that the Roman Pontiff..."

[*Latin ed. p. 176*]

176 Let them strive for concord, and let them reconcile and harmonize with modern society. But others deserve praise for steadfastly upholding the immutable principles of eternal justice, ensuring that the integrity and inviolability of our most wholesome religion are fully preserved, a religion which both amplifies the glory of God and offers remedies appropriate to the many evils that afflict the human race, and which is the unique and true standard by which the sons of men are led to the port of eternal blessedness through all virtue in this mortal life. But the patrons of this modern society do not accept such a distinction, since they claim to be true and sincere friends of religion. And We would be inclined to believe them, were it not for the most grievous facts, which are constantly before the eyes of all. Indeed, there is but one true and holy religion on earth, founded and instituted by Christ the Lord, which, as the fruitful mother and guardian of all virtues, and as the expeller of vices, and the liberator of souls, and as the sign of true happiness, is called Catholic, Apostolic, and Roman. But what should be thought of those who live outside this ark of salvation? We have already declared this in Our Consistorial Address of December 9, 1854, and here We reaffirm the same doctrine. Now, We ask those who urge Us to extend Our hand to the modern world, whether such actions are being taken as might lead the Vicar of Christ on earth, appointed by Him to defend the purity of His heavenly doctrine, and to feed and strengthen the sheep with that same doctrine, to associate with this modern society without incurring a most grievous torment of conscience and the greatest of scandals, a society whose actions bring about so many evils that cannot be sufficiently deplored, and which promulgates so many abominable opinions, errors, and principles that are entirely opposed to the Catholic religion and its doctrine. And among these actions, no one is ignorant of how even the solemn Conventions rightly begun between this Apostolic See and royal princes are utterly destroyed, as recently happened in Naples. In this very large assembly, Venerable Brothers, We complain again and again about this matter, and We protest with the utmost vehemence in precisely the same way that We have protested against similar acts and violations. But this modern society, while favoring every non-Catholic cult, does not prevent the unfaithful from holding public offices, and it denies Catholic schools to the children of Catholics, it is angered against Religious Families, against institutions founded to govern Catholic schools, against numerous

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men of the Church of every rank, many of whom are distinguished by the highest dignity, of whom not a few live in exile or in miserable captivity, and even against respected laymen who are devoted to Us and to this Holy See, and whose...

[*Latin ed. p. 177*]

They zealously defend the cause of justice and righteousness. This "civilization," while lavishing support upon anti-Catholic institutions and individuals, unjustly deprives the Catholic Church of its rightful possessions, and employs all means and stratagems to undermine the salutary influence of the Church itself. Furthermore, while granting complete freedom to those who utter words and write things that are hostile to the Church and to all who are devoted to her from the heart, and while encouraging, fostering, and nurturing such sentiments, it at the same time exhibits the utmost caution and moderation in reprehending those who sometimes resort to violent and harsh methods against those who disseminate excellent writings; and it exercises the utmost severity in punishing them if it deems that they have even slightly transgressed the bounds of moderation. Therefore, how could the Roman Pontiff ever extend a friendly hand to such a "civilization," and enter into a sincere alliance and concord with it? Let the true meaning of words be restored, and this Holy See will always remain steadfast. For it has always been a staunch patron and defender of true civilization; and the monuments of history eloquently testify and prove that, from this very Holy See, true, righteous, and humane conduct, discipline, and wisdom have been brought to the most distant and barbarous regions of the world. But when, under the name of "civilization," one wishes to understand a system carefully designed to weaken and perhaps even destroy the Church of Christ, then certainly this Holy See and the Roman Pontiff can never agree with such a "civilization." For, as the Apostle wisely proclaims, "Can light be united with darkness? Or can Christ be united with Belial?" (1) Therefore, with what justification do the instigators and patrons of sedition amplify their efforts to portray as conciliatory the futile attempts they have made to come to terms with the Roman Pontiff? For he, who draws all his strength from the principles of eternal justice, how could he ever abandon them, so that the most holy faith might be weakened, and thus Italy might be brought to the point of losing its greatest splendor and glory, which it has enjoyed for nearly two thousand years as the center and seat of Catholic truth? It cannot be said that this Apostolic See has closed its ears to the requests of those who have expressed a desire for a more liberal administration. Let us set aside past examples, and speak of our own unhappy age. Whenever Italy has obtained more favorable institutions from its legitimate rulers, We, acting with a paternal spirit, have included a portion of Our Pontifical dominions in the civil administration, and have granted suitable concessions, but always with due prudence.

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(1) 1 Corinthians 6:14-15.

[*Latin ed. p. 178*]

1 78 The aforementioned measures, arranged in order, were intended to prevent the paternal office, granted with good intentions, from being corrupted by the actions of wicked men. But what actually happened? Unbridled license, obtained through Our generosity, flourished, and the threshold of the Aulae, where public officials and deputies had gathered, was stained with blood, and impious hands were turned against Him who had granted the favor. And if, in these recent times, counsel concerning civil administration was given to Us, Venerable Brothers, know that it was accepted by Us, with the exception and rejection of that which did not pertain to civil administration, but rather to the matter of consenting to the already completed act of spoliation. But let us not speak of well-received counsel, nor of Our sincere promises to carry them out, when those who promoted usurpations proclaimed aloud that they did not seek reforms, but rather absolute rebellion, and complete separation from the legitimate Prince. And they were the most serious authors and instigators of this crime, filling everything with their clamor, not the people, as it is fitting to say concerning those whom Venerable Bede speaks of concerning the Pharisees and Scribes, enemies of Christ (1): "These were not some from the crowd, but the Pharisees and Scribes who were condemned, as the Evangelists testify." But the attack on the Roman Pontificate does not only concern the deprivation of the Holy See and the Roman Pontiff of their legitimate civil authority, but also aims to weaken, and, if ever possible, completely destroy the salutary power of the Catholic religion: and therefore, it attacks the very work of God, the fruit of redemption, and that most holy faith which is the most precious inheritance derived from the ineffable sacrifice consummated on Golgotha. And so, the aforementioned events, and those which we see happening day by day, sufficiently and abundantly demonstrate this. How many dioceses in Italy have been deprived of their bishops due to obstacles imposed by prudent patrons of modern civilization, who abandon so many Christian peoples without pastors, and seize their goods, in order to turn them to wicked uses! How many sacred ministers are in exile! How many (and we say this with incredible sorrow of mind) apostates, who speak not in the name of God, but in the name of Satan, and, confident in the impunity granted to them by this fatal system of government, agitate consciences, and urge the weak to commit sin, and strengthen the miserably fallen in the most shameful doctrines, and strive to tear apart the garment of Christ, while pretending to reform national churches, and proposing and suggesting other such impieties. After having

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thus insulted religion, which they hypocritically invite to embrace...

[*Latin ed. p. 179*]

ix iv. 179. Now, indeed, whoever, whether deceived by error or struck by fear, wishes to offer counsel agreeable to the unjust designs of those who disturb civil society, must above all persuade himself at this time that these men will never be satisfied, unless they see every principle of authority, every restraint of religion, and every rule of law and justice removed. And these subverters, in the ruin of civil society, have already achieved, both in word and in writing, the perversion of human minds, the weakening of moral sense, and the stripping away of the horror of injustice; and they strive to persuade everyone that the law invoked by honest nations is nothing other than an unjust will that must be utterly despised. Alas! Truly, the land has withered and its inhabitants have been corrupted by the daily civility, and we do not doubt that, with equal hypocrisy, they will urge us to reconcile ourselves with Italy. Indeed, while we, stripped of almost all our civil principalities, bear the gravest burdens of the Pope and the Prince, sustained daily by the most loving gifts of pious children of the Catholic Church sent to us, and while we are made a free gift, a sign of envy and hatred, by those very ones who demand reconciliation from us; they would furthermore wish that we should openly declare that the provinces of our Pontificate, usurped by them, should be ceded to their free ownership. And with this very bold and hitherto unheard-of demand, they seek that from this Apostolic See, which has always been and will be a defender of truth and justice, that the thing unjustly and violently taken away should be sanctioned, so that it may be quietly and honorably possessed by an unjust aggressor; it is as if the height of the people of the land has been weakened, because they have transgressed the laws, changed the judgment, and broken the everlasting covenant.

(1) *Is. can. 24 v. 4, 5.*

But in such darkness, it has been declared these very days that the Roman Pontiff is the representative of the principal moral power in human society. From this, it plainly follows that he can in no way consent to a vandalistic spoliation, unless the very foundation of moral discipline, of which he himself is the primary form and image, is violated.

[*Latin ed. p. 180*]

xiv. A spirit of rivalry is introduced among you, so that, indeed, it introduces more and more each day, so that the tribes of the Gentiles may come to us with the most affectionate letters, both closely and in complete agreement, not with the intention of being most intimately united, so that they may be ready to undergo with us that fate which the ancients sought for reconciliation, but so that they may experience the hidden sorrows, pains, and anguis reserved for each of us by the secret counsel of divine

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providence, and so that they may show their love for us in every way, and confirm this bond of charity, both among themselves and with this Catholic religion, the center of Christian unity, and with the Antistites of the sacred and sacrilegious civil rites of Our Lord, and that the faithful entrusted to them may constantly declare their devotion to this same See, and that they may instruct them in the doctrine of the evangelical truth.

"Now, since these things are so, and before we bring our words to an end, we declare openly before God and men that there is absolutely no reason why we should reconcile ourselves with anyone. For, although we are unworthy, we perform here the office of Him who, for the sake of the transgressors, has always prayed and asked, and we feel that we ought to show mercy to those who hate us, and to pray for them that they may be converted by the grace of God, and that they may receive the blessing of Him who, here on earth, carries on the work of Christ. We are certainly ready to forgive and bless them freely, as soon as they are converted. In the meantime, however, we cannot remain indifferent, as if we cared nothing for human misfortunes; we cannot but be deeply moved and grieved, and we must not consider the great damage and evil done to those who suffer persecution for righteousness' sake to be insignificant. Therefore, while we abstain from the clearest testimonies of filial love and devotion to this Apostolic See, we are deeply saddened, and we beseech God..."

[*Latin ed. p. 181*]

181 We earnestly beseech Christ Jesus, in His own name, to judge the cause of His Vicar, which is the cause of His Church, and to defend it against the efforts of His enemies, and to bring about and increase a glorious victory. We also implore Him to restore order and tranquility to the disturbed society, and to grant the most desired peace, for the triumph of justice, which we alone expect from Him. In this great distress of all of Europe and the entire world, and of those who labor with such difficulty in governing the fortunes of peoples, God alone is He who can fight with us and for us.

IX iv. We fulfill the most important duty of our supreme apostolate, which is to speak, to teach, and to condemn whatever God and His Church teach and condemn, so that we may complete our course, and that the ministry of the word, which we received from the Lord Jesus, may testify to the Gospel of the grace of God. Therefore, if unjust things are demanded of us, we cannot comply; but if forgiveness is requested, we are compelled, as we have recently declared, to grant it freely. But in order that we may express this forgiveness in a manner that is entirely worthy of the dignity and sanctity of our Pontificate, we bend our knees before God, and embracing the triumphant banner of our redemption, Christ Jesus, we humbly implore Him to fill us with the same charity, so that we may forgive in the very manner in which He forgave His enemies, before He delivered His

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most holy spirit into the hands of His eternal Father. And we implore Him to grant that, just as after granting forgiveness, He illuminated the minds of His enemies amidst the dense darkness in which the entire earth was enveloped, and those who had committed a horrible deed returned, penitent, striking their breasts, so may He, in this great darkness of our age, pour forth gifts from the inexhaustible treasures of His infinite mercy, through His heavenly and triumphant grace, that all who are wandering may return to His one fold. Whatever the future may hold, let it be investigated by His divine providence: "Judge us, O God, and decide our cause against an unholy people; grant peace in our days, for there is no one who fights for us but You, O God, our God."

ALLOCUTION GIVEN IN SECRET CONSISTORY ON SEPTEMBER 30, 1861.

My Venerable Brothers,

Each of you, Venerable Brothers, remembers how often, in this very large assembly of yours, we have lamented with the greatest sorrow the grave and never sufficiently deplored damages inflicted upon the Catholic Church, upon this Apostolic See, and upon us, along with the greatest detriment to civil society, by the Piedmontese government, and by the authors and supporters of the most disastrous rebellion.

[*Latin ed. p. 182*]

182 APPENDIX IV. especially to the wretched regions of Italiae, which the same Government has unjustly and violently seized. Now, we are compelled to grieve, amidst countless and ever more grievous wounds inflicted upon our most holy religion by the very Government, and by those men engaged in a nefarious conspiracy, concerning our most beloved Son, your distinguished colleague, and the most vigilant Archbishop of Neapoli, conspicuous for his piety and virtue, whom you see present here, who has been seized by military force, and torn away from his own flock, with immense loss of all his possessions. Moreover, all know how the satellites of the same Government and rebellion, filled with every deceit and falsehood, and acting abominably, renewing the machinations and fury of the ancient heretics in their ways, and profaning all that is sacred, conspire to utterly destroy the Church of God, if such a thing were ever possible, and to eradicate the Catholic religion, and its salutary doctrine, from the hearts of all, and to stir up and inflame every kind of wickedness. Hence, with all divine and human rights, and ecclesiastical censures utterly disregarded, the sacred ministers are more and more boldly expelled from their own dioceses day by day, and even sent to prison; and many faithful people are deprived of their pastors, and men of both the clergy are lamentably impoverished, and subjected to every kind of injury; and religious families are destroyed,

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and their members ejected from their monasteries, reduced to the utmost poverty, and the holy virgins dedicated to God are forced to buy bread; and the most religious temples of God are plundered, defiled, and turned into the lairs of thieves, and sacred goods are stolen, and ecclesiastical power and jurisdiction are violated, usurped, and the laws of the Church are despised and trampled upon. Hence, public schools of depraved doctrines are established, and pestiferous books and periodicals are published and disseminated throughout all places, at the enormous expense of this wicked conspiracy. By these most pernicious and abominable writings, the most holy faith, religion, piety, honesty, chastity, modesty, and every virtue are attacked, and the true and immutable principles of eternal and natural law, and of public and private law, are overthrown, and the legitimate freedom and property of each are violated, and the foundations of each family and of civil society are undermined, and the reputation of all is lacerated by false accusations and the most grievous slanders, and unrestrained licentiousness and the freedom to say anything are encouraged, and all vices and errors are fostered, propagated, and promoted. No one can see how grievous a series of calamities, crimes, and misfortunes has resulted from this great fire of impious rebellion, especially in wretched Italiae. Indeed, as the Prophet says, "Cursed shall be thy barn, and cursed thy stores."

[*Latin ed. p. 183*]

"APTEN" flooded, and blood mingled with blood. The soul recoils and shudders at the thought, and it is to be feared that more towns in the Kingdom of Naples have been set ablaze and reduced to ashes, and countless, most upright priests and religious men, and citizens of every age, sex, and condition, have been subjected to the most grievous insults, and, even without a trial, either imprisoned or cruelly put to death. Who will not be filled with the most bitter sorrow, seeing that, by the raging men of rebellion, no reverence is shown to sacred ministers, to the Episcopal and Cardinalate dignity, to nobility, to this Apostolic See, to sacred temples and things, to justice, or to humanity, but that everything is filled with outrages and devastation? These things are perpetrated by those who are not ashamed to assert, with the utmost impudence, that they wish to give freedom to the Church, and to restore moral order to Italy. And they do not hesitate to demand of the Roman Pontiff that he should consent to their unjust desires, lest greater harm be done to the Church. And it is also a matter of great sorrow, Venerable Brothers, that some men, both from the clergy and adorned with ecclesiastical dignity, in Italy, are so miserably filled with a spirit of such fatal deviation and rebellion, and, forgetting their own vocation and office, have turned away from the path of truth, and, favoring the wicked designs of impious men, have become a stumbling block and a rock of scandal. To these evils that we deplore, another grievous thing has been added, namely, that not long ago, in the Mexican territory, men of

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the same kind, inflamed with a similar hatred against the Catholic Church, did not hesitate to promulgate laws most unjust and completely opposed to the power, rights, and doctrine of that Church, to plunder ecclesiastical goods, to despoil sacred buildings, to inflict violence upon ecclesiastical and religious men, to drive away virgins devoted to God, to harass bishops with various injuries, separating them from their flocks, and to drive them into exile; and almost all of these came to this our beloved city, and they have been a source of great consolation to us, because of the excellent virtues with which they are endowed, and by which they excel so much. And this is not enough, for in another part of America, namely, in the Gran Colombian territory, those who have recently disturbed civil affairs, having seized supreme authority, have promulgated a scandalous decree, by which ecclesiastical power is forbidden to exercise its authority without the permission and consent of the civil government, and the members of the illustrious Society of Jesus, who have deserved well in both Christian and civil matters, have been expelled, and, moreover, Our Delegate of this Holy See has been forced to leave the territory within three days.

[*Latin ed. p. 184*]

184 APPENDIX: Indeed, in the face of such great and so grievous a disturbance of all divine and human affairs, Venerable Brothers, you easily understand how deeply we are afflicted by bitterness. In the greatest cares and anxieties, which we could by no means bear without the special help of God, it is to us a most excellent consolation that the devotion, virtue, and fortitude of Venerable Brothers, both from Italy and from the entire Catholic world, are so great. For these Venerable Brothers, bound to us by the closest bonds of faith, charity, and obedience, and wonderfully attached to the Chair of Peter, fear no dangers, but diligently fulfill their own ministry, striving for the immortal glory of their name and order, and do not cease to defend, with courage, the cause of God, and of His Holy Church, and of this Apostolic See, its rights, doctrine, and the reasons of justice and humanity, to diligently provide for the safety of their own flock, and to refute false and erroneous doctrines of enemies, and to resist with strength and constancy the impious efforts of those men. We are also greatly delighted when we see how many men and faithful people of each region of Italy, and of the entire Christian world, glory in demonstrating and declaring their singular love, veneration, and outstanding zeal for us, and for this Apostolic See, and for diligently promoting and safeguarding our most holy religion. When these Venerable Brothers, and their clergy and faithful people, are deeply saddened to see us, almost entirely stripped of our civil possessions, and in such distress, they consider nothing more pleasing, nothing more glorious, than to alleviate our most grievous distresses and anxieties, and those of this Holy See, with their pious and spontaneous contributions. Therefore, while in the humility of our heart we give the

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greatest thanks to God for all this consolation, who deigns to alleviate, comfort, and sustain our most bitter sorrows and troubles with so remarkable piety, generosity, and liberality of Bishops and faithful people, we are delighted to publicly and openly testify and confirm with our own senses to these same Bishops and faithful people, since it is only through their help and assistance that we can meet our greatest and ever-increasing needs, both our own and those of this Holy See. And here, Venerable Brothers, we cannot pass in silence the constant expressions of steadfast love, firm fidelity, devoted obedience, and generous liberality, with which the Roman people strive to demonstrate and prove that nothing is more important to them than to remain steadfastly attached to us and to this Apostolic See, and to our legitimate civil authority, and to resist all the nefarious machinations and conspiracies of those men who seek to undermine and destroy.

[*Latin ed. p. 185*]

"And that which is unjust, he shall repel, and that which is contrary to the spirit, he shall detest. You yourselves, Venerable Brothers, are the most abundant witnesses, to whom the Roman People, most dear to Us, never cease to declare, with sincere, public, and most evident declarations, the same sentiments concerning their venerable faith, sentiments which are entirely worthy of the highest praise, and which they bring forth publicly. Indeed, since We have the divine promise that Christ, the Lord, will remain with His Church until the consummation of the age, and that the gates of hell shall never prevail against it, We are certain that He, who makes miracles, will not fail in His divine promises, and that He will show that the great storm which was raised was not to sink the ship of the Church, but to raise it higher. In the meantime, Venerable Brothers, let us earnestly and constantly implore the most powerful intercession of the Immaculate, most holy Virgin Mary, the Mother of God, and let us pray and beseech with fervent prayers, day and night, the most merciful God, whose nature is goodness, whose will is power, and whose work is mercy, that He may will to shorten the days of tribulation, and to extend His helping hand to the Christian and civil commonwealth so violently afflicted, and that He may pour forth the riches of His divine grace and mercy upon all, that He may convert all enemies of the Church and of this Holy See, and bring them back to the paths of justice, and that, by His almighty power, He may make it so that, with all errors repelled and all wickedness removed, His most holy religion, in which also the happiness and tranquility of the people are most greatly contained, may flourish and prevail more and more throughout the earth."

ALLOCUTION GIVEN IN SECRET CONSISTORY ON MARCH 18, 1867. This allocution was presented in Volume III, page 443 and following. In it, the Most Holy Father condemned the law promulgated

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by the Piedmontese Government, which was stripping the Church of its possessions, and He made mention of the unfortunate Maximilian, and, among other things, He praised the memory of Cardinal Ludovico Altieri, a memory which will never perish.

ENCYCLICAL LETTER DATED OCTOBER 17, 1867: This letter was included in Volume III, page 467. In it, the Most Holy Father described the worst abominations by which Italy is afflicted, the distresses by which the Apostolic See is oppressed by the force of new vandals, and the evils by which the Church is afflicted in the Russian Empire.

[*Latin ed. p. 186*]

186 APPENDIX IV. They conspired to restrain the enemy's onslaught, and, having engaged with them, and having restored peace in many places, POPE PIUS IX, in a contest so bravely and resolutely fought, that those formidable hordes were utterly defeated, dispersed, and the cities and towns were restored to tranquility and security. And not long afterwards, when a heavily armed force from the City dared to approach the walls in order to attempt an incursion, and, with their wicked associates, who had already arrived, and with new plans for devastation, given the signal for conspiracy, with fires, expulsions from homes, the plundering of temples, and with a flood of the blood of citizens, they did not fail to provide our soldiers with the means to satisfy their insatiable hatred for this beloved City, in which the Apostolic See was established by divine providence, the foundation of religion, the teacher of faith, the citadel and bulwark of the Catholic faith. From this source came the machinations and deceptions, from this source came open force; for, indeed, from the very depths of the populace, cohorts most readily prepared for every wickedness were sent into our provinces to stir up rebellion, and heaps of brushwood were collected in the neighboring Sabine province of Eretum, and there, when many injustices had been committed, and a frenzied desire for a new attack on the City was being considered, our forces, both ours and those of the French allies, were sent against the enemy, so that they might drive them back; and, having engaged in battle near Nomentum, they displayed such strength, ardor, and firmness in fighting, that they overcame that vast multitude.

LETTERS APOSTOLIC, ISSUED IN BRIEF FORM ON NOVEMBER 14, 1867.

[*Latin ed. p. 187*]

Moreover, although some, though greater in number, may have fallen and died for a greater reward of labor, we grant to the surviving ones, and to many others, that one year of wounds, of slaughters, of captivity, of being abducted, be excused from the established regulations concerning

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the payment of stipends; to those who, with the most valiant leader, were turned to flight, we grant these benefits according to military discipline, having achieved complete victory. Furthermore, we give to the victorious troops a silver badge to be worn on the left side of the breast, in the manner of a cross, so that it may be visible to all, and that the Gallic soldiers may, with loud shouts and applause, congratulate the most valiant men who, with our troops, fought bravely against the enemy near Nomentum. Finally, that those victories, which were not achieved without the help of God, and which are celebrated nowhere without praise, may be spread to all ages, we have ordered a silver badge to be made in the form of an octagon, with an inscription on the edges.

PIUS PP. IX. In the year 1857.

By these letters, we publicly proclaim and declare that, concerning us, concerning the Apostolic See, and concerning the Catholic Church, they have been most worthy men; and there is nothing more honorable, nothing more glorious, nothing that can say more for their immortality than this proclamation.

Given at Rome, near St. Peter's, on the fourteenth day of November, in the year 1857.

Our Cardinal Prefect, N. CARB. PARACCIANI CLARELU.

[*Latin ed. p. 188*]

APPENDIX IV. FROM WHICH DOCUMENTS WE GATHER THE FOLLOWING PROPOSITIONS, WHICH ARE REPROBATED AND CONDEMNED AS CONCERNING PUBLIC CHURCH LAW.

I. The immunity of clerics and churches must be abolished, page 147 and following.

II. Civil authority can, by itself alone, rescind agreements entered into with the Apostolic See, page 148 and following.

III. Civil authority can judge concerning the episcopal office, and can determine how those who are subject to it ought to conduct themselves before civil law, even if this is contrary to sacred canons, page 148 and following.

IV. A bishop cannot impose censures upon those who, by order of the government, dare to enter the bishop's houses by force, page 148 and following.

V. The administration of public and private instruction pertains exclusively to civil authority, page 149 and following.

VI. Directors of spirit, even in public schools, can also be chosen and approved by civil authority without any intervention of ecclesiastical authority, ibid.

VII. Civil authority can abolish monastic and religious families of both sexes, collegiate churches, simple benefices, and even patronage, and can

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subject their goods and revenues to the administration and jurisdiction of civil power, page 152.

VIII. Civil authority can prescribe the conditions under which religious families must be, unless they wish to be abolished, page 152.

PROPOSITIONS TO BE HELD CONCERNING THE CHURCH AND THE CIVIL POWER, AND THE SUPREMACY OF THE ROMAN PONTIFF.

I. "There is only one true and holy religion founded and instituted by Christ the Lord upon earth, which, being the fruitful mother and guardian of all virtues, and the expeller of vices, and the liberator of souls, and the sign of true happiness, is called Catholic, Apostolic, Roman," page 176.

[*Latin ed. p. 189*]

APPENDIX IV. 189 II. Neither can it be reconciled with the principles and actions of modern society, page 177 and following. III. "The Catholic Church has attained the form of a perfect society through the force of its institution, and therefore ought to enjoy freedom, so that, in performing its sacred ministry, it may not be subject to any civil authority," page 166. IV. "We declare it necessary that this Holy See have a civil principality, so that it may exercise its sacred power for the good of religion without any impediment," pages 157 and 166. V. "It has happened, by the singular counsel of Divine Providence, that, amidst so great a multitude and variety of temporal princes, even the Church of Rome has not been subjected to anyone in temporal dominion, so that the Roman Pontiff, the supreme pastor of the whole Church, being never subject to any prince, may increase and enhance the supreme power of tending and governing the entire flock of the Lord, which He received from Christ Himself, and may exercise it freely throughout the world, and at the same time may more easily spread the divine religion day by day, provide for the needs of the faithful, offer suitable assistance to those in distress, and accomplish all other good things which He Himself knows are necessary for the greater benefit of the entire Christian commonwealth," pages 159, also 162 and 166. VI. It is fitting that the Roman Pontiff should have a civil principality, lest any occasion arise for the Catholic world to doubt, perhaps influenced by the power of civil authorities or factions, whether the Holy See, to which all churches must necessarily come because of its superior authority, is acting in the universal administration, page 166. VII. The civil principality of the Roman Church, although by its own nature it seems to pertain to temporal matters, nevertheless takes on a spiritual character through the sacred purpose to which it is destined and through that very close bond with which it is joined to the most important matters of the Christian religion, page 166. VIII. The usurpation of the pontifical jurisdiction is also a grave sacrilege, page 168. IX. False and pernicious are the principles by which the people are incited to rebellion against legitimate princes, pages 147, 167, and which

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undermine the very foundations of all human society, page 168.

[*Latin ed. p. 190*]

190 APPENDIX IV. IX. The jurisdictions of the Holy See do not belong to the succession of any royal family, but to all Catholics, page 163 and 164, and likewise, these jurisdictions pertain equally to all Catholics, page 165, and the children of the Church ought to grant their authority, page 167, and other Princes, page 175. X. It is of the greatest interest to each Prince of Europe that the Roman Pontiff enjoy full freedom, so that due consideration may be given to the tranquility of the consciences of Catholics residing within the jurisdictions of these Princes, page 161. XI. No civil government can deny the right to enlist foreign people into its ranks; especially, the Pontifical government, for the defense of the Church, since the Pope is the Father of all the faithful, page 171. XII. The principle of non-intervention is harmful and pernicious, page 174. HISTORICAL PROPOSITIONS CONCERNING THE CIVIL GOVERNMENT OF THE ROMAN PONTIFF. I. The civil government of the Roman Church and the Roman Pontiff has been established by a divine dispensation of things and by the ancient possession, for so many centuries, and by the most just and best of rights, and has always been regarded and defended by the common consent of all peoples and Princes, even non-Catholics, as a sacred and inviolable patrimony of Saint Peter, page 159. II. History clearly testifies that the civil government exercised by the Roman Pontiffs does not hinder them from accomplishing all those things which contribute to the temporal happiness of the people, page 166. III. The plans, machinations, and frauds of those who desire to wrest the temporal dominion of the Roman Church away tend to the end that the Roman Church, deprived of its patrimony, may diminish the dignity, majesty, and power of the Apostolic See and the Roman Pontiff, inflict the greatest damage and the most terrible war upon the most holy Religion, and, if it were ever possible, utterly destroy it, page 160.

[*Latin ed. p. 191*]

APPENDIX IV. 191 IV. Attempts of various kinds to undermine the civil Principate, with God assisting His Church, have always and sooner or later failed, page 166. PROPOSITIONS CONCERNING THE OFFICE OF THE HOLY FATHER IN PRESERVING THE CIVIL PRINCIPATE. I. It is the office of the Apostolic ministry, and moreover, under solemn oath, to watch over the safety of the Religion with the utmost vigilance, and to defend entirely and inviolably the rights and possessions of the Roman Church, and to assert and vindicate the freedom of the Holy See, which is plainly connected with the welfare of the entire Church, and therefore to defend that very Principate which Divine Providence granted to the Roman Pontiffs in order freely to exercise the administration of sacred things throughout the world, and to transmit that Principate, entire and inviolate, to succeeding

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Pontiffs, page 160. II. The Roman Pontiff cannot cede his pontifical jurisdictions to others, unless he cedes something of his own, unless he violates his oath, and in the present condition of affairs, unless he weakens the rights of other princes, and unless he admits certain most pernicious principles, page 163. III. The Most Holy Lord declared that His intention, purpose, and will is to retain and transmit to His Successors all the domains of the Holy See, and all its rights, entire, intact, and inviolate, page 143. IV. Moreover, He declared that any usurpation, just as it was made before, is unjust, violent, null, and invalid, and that all the acts of usurpers and invaders, whether those that have been done up to now, or those that perhaps will be done in the future, intended to confirm that usurpation in any way, are by Him now condemned, annulled, rescinded, and abrogated, page 143, 160. V. Moreover, He declared that usurpers and invaders of the provinces of the Holy See, and all those who cooperate with them, have incurred a greater excommunication and other canonical penalties, page 144, 160, and expressly, page 169. VI. Moreover, He declared and protested before God and the entire Catholic world, that He is in such a captivity, that He...

[*Latin ed. p. 192*]

The provided text does not contain any Scripture quotations to be corrected. Therefore, the text remains unchanged.

192 APPENDIX IV. ut potissimum auctoritatem pastoralem tuto, expedite et libere exercere possit, page 148. VII. Item, declaravit se paratum esse asperitates et acerbitates quaeque perpeti, et etiam vitam suam ponere, antequam causam Dei, Ecclesiae et iustitiae ullo modo deserat, page 164, 157. VIII. Iterum, palam et apertissime edixit et declaravit: « Nos, per mores officii Nostri et solemnem iuramentum quo tenemur, nulli umquam conciliationi assentiri vel assensum praestituemus, quae ullo modo iura nostra atque adeo Dei et Sanctae Sedis destruat vel imminuat: itemque, profitemur Nos paratos quidem divinae gratiae auxilio, gravi aetate Nostra, usque ad calicem pro Christi Ecclesia bibere, quem Ipse prior bibere pro eadem dignatus est, numquam committere, ut iniquis postulationibus, quae Nobis offeruntur, adhaereamus atque obsecundemus,» page 143 et 144. PROPOSITIONES CATHOLICAE SPEI I. «Certi sumus, divinis suis promissis non defuturam Eum, qui, faciens mirabilia, ostendet aliquando, tantam tempestatem non ad Ecclesiae navem demergendam, sed ad eam altius attollendam fuisse excitatam,» page 185. II. «Ipse (Deus) est, qui charitatis vinculo inter se, et cum hoc catholicae veritatis et unitatis centro coniungit Sacrorum christiani orbis Antistites. . . Ipse super omnes catholicas gentes effundit spiritum precum, et acatholicis aequitatis sensum inspirat, ut rectum de hodiernis eventibus ferant iudicium.» Haec autem tam mira in universo catholico orbe precum consensus, tamque unanimes erga Nos amoris significationes, tot sane variisque modis expressae (quod in anteactis aetatibus haud facile queat inveniri), manifestissime ostendunt, quemadmodum ho-

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minibus recte animatis opus omnino sit tendere ad hanc Beatissimi Principis Apostolorum cathedram, lucem terrarum orbis,» page 180.

[*Latin ed. p. 193*]

193 FROM THE HOLY CONGREGATION OF RITES. DECREE PUBLISHED ON DECEMBER 8, 1870, IN THE BASILICAS OF THE CITY OF ROME, DURING THE SOLEMNITY OF THE MASSES, WHEREBY SAINT JOSEPH IS DECLARED PATRON OF THE CATHOLIC CHURCH. DECREE FOR THE CITY AND THE WORLD. "Just as God appointed Joseph, that Joseph descended from the Patriarch Jacob, as governor of all the land of Egypt to preserve grain for the people, so, when the fullness of time arrived, and He was about to send His Only Begotten Son, the Savior of the world, into the world, He chose another Joseph, of whom the first was a type, and He made him Lord and Prince of His house and possessions, and the guardian of His principal treasures. Since he had as his bride the Immaculate Virgin Mary, from whom our Lord Jesus Christ was born of the Holy Spirit, who deigned to be considered the son of Joseph among men, and who was subject to him. And that Joseph, whom so many kings and prophets had longed to see, not only saw him, but conversed with him, embraced him with paternal affection, and kissed him; moreover, he nurtured him most wisely, whom the faithful people received as bread that came down from heaven, to obtain eternal life. Because of this sublime dignity which God bestowed upon this most faithful servant of His, the Church has always held the Blessed Joseph in the highest honor and praise, following after the Divine Virgin, His Spouse, and has implored his intercession in times of trouble. But now, in these most grievous times, when the Church itself is beset on all sides by enemies, and is oppressed by such grave calamities, that impious men seem to be about to prevail and open the gates of hell against her, therefore, the Most Reverend and Holy Fathers throughout the Catholic world, entrusted with the care of their flocks, have offered their prayers to the Supreme Pontiff, in which they requested that Saint Joseph, Patron of the Catholic Church..."

[*Latin ed. p. 194*]

194 DECREE. May the Most Holy Church be pleased to establish a Patron for the Licae Church. Then, when in the Sacred Ecumenical Council of the Vatican, the same requests and desires were renewed, moved by the most recent and sorrowful condition of affairs, Our Most Holy Lord Pope Pius IX wished to entrust Himself and all the faithful to the most powerful patronage of Saint Joseph, and, wishing to satisfy the desires of the Sacred Prelates, He solemnly declared him PATRON OF THE CATHOLIC CHURCH; and, since the feast day of that Saint falls on the nineteenth of March, He ordered that it be celebrated in the future with a double

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rite of the first class, although without an octave, because of the season of Lent. Furthermore, He decreed that, on this day, the sacred rites of the Immaculate Virgin Mary and of the most chaste Joseph, her Spouse, be observed, and that this declaration be made publicly known through the present Decree of the Sacred Congregation of Rites. In spite of any objections that may arise. On the eighth day of December, 1870. The Most Reverend Bishops of Oslien and Velitern, Cardinal PATRIZI, Prefect of the Sacred Congregation, and Dominic Bartolini, Secretary of the Sacred Congregation. CIRCULAR LETTER ISSUED ON THE SAME DAY TO THE SACRED PRELATES, IN WHICH PUBLIC DEVOTION IS ENCOURAGED, WHICH SHOULD BE APPROPRIATE TO THE NEW TITLE GIVEN TO THE SAME SAINT JOSEPH. "Our Lord, "Our Most Holy Lord Pope Pius IX, wishing to satisfy the desires of almost all the Sacred Prelates, which were manifested even in the Ecumenical Council of the Vatican, declared Saint Joseph, the Spouse of the Virgin Mary, Patron of the Catholic Church, so that, in this most miserable time, sorely afflicted by many calamities, she may, through his patronage, finally be preserved from all adversities and errors, and may serve God with freedom. Although the Most Holy Pope Himself has ordered that the feast day of the aforementioned Saint Joseph, which falls on the nineteenth of March, be celebrated in the future with a double rite of the first class, nevertheless..."

[*Latin ed. p. 195*]

CIRCULAR LETTER. Having abstained from fulfilling the double precept on that same feast day (1), and wishing that, through the present Letters of the Congregation of Sacred Rites, it might be signified to the Local Ordinaries, that He freely grants [permission], it is fitting to recall the universal Constitution of Urban VIII, promulgated on September 13, 1642, which begins, "To all throughout the World." In that Constitution, that Pontiff, in order to eliminate the confusion arising in many dioceses from the multitude of feast days, decreed: "By Our Apostolic Authority, We decree and declare that only the following days are to be observed as feast days by precept, namely those which either from the beginning have been most sacredly observed by venerable antiquity, or which have been approved by the universal Church by custom, or which are venerated by the unanimous piety of all nations; namely, all the days of the Lord's year, the Nativity of Our Lord Jesus Christ, the Circumcision, the Epiphany, the Resurrection with the two following days, Ascension, Pentecost with the two following days likewise, the Most Holy Trinity, the solemnity of the Body of Christ, and the Finding of the Holy Cross, as well as the feasts of the Purification, the Annunciation, the Assumption, and the Nativity of the Virgin Mary, the Dedication of Saint Michael the Archangel, the Nativity of Saint John the Baptist, Saints Peter and Paul, Saint Andrew, Saint James, Saint John, Saint Thomas, Saints Philip and James, Saint Bartholomew, Saint Matthew,

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Saints Simon and Jude, and Saint Matthias, the Apostles of Our Lord Jesus Christ, also Saint Stephen the protomartyr, Saints Innocent, Saint Lawrence the martyr, Saint Sylvester the Pope and Confessor, Saint Joseph also Confessor, and Saint Anne the Virgin Mother, respectively, the spouse and mother, the solemnity of All Saints, and one of the principal patrons in any kingdom, if a province and another equally principal patron in any city, town, or village, where these patrons are observed and venerated."

Regarding the observance of the remaining days, which have hitherto, either in the universal Church, or in any nation or kingdom, province, diocese, or place, in any way, either by custom, or by devotion, been celebrated by the faithful as feast days, We decree and declare, by this authority, that they are by no means to be held as obligatory by precept, and that this is to be observed perpetually. Lest the Local Ordinaries, through the excessive liberty of some, or the importunity of the people, should again multiply the feast days, We admonish those same Ordinaries, in the Lord, to strive, for all time henceforward, to abstain from instituting new feast days under precept, in order to maintain ecclesiastical equality everywhere. In order that those things which have been expressed above may be observed with the more fervent veneration and devotion, We remind the same Ordinaries to observe the ancient canons in granting licenses to work on feast days; these licenses, as stated above, are to be granted only in accordance with the form of the aforementioned canons, and only freely, without any price or agreement whatsoever, directly or indirectly, under the full and most severe penalty, to be imposed by Ourselves and Our successors. However, We do not intend by this Our Constitution to change the feast days concerning judicial matters in any way, but We leave them in the same state and terms in which they were before the promulgation of the same."

But on the feast of Saint Joseph, which, by the aforementioned Constitution, was universal and obligatory, it happened, as with other similar feasts. For whether through petitions or ordinances, the people were to be brought into conformity with the new civil laws of the Kingdoms...

[*Latin ed. p. 196*]

196 LETTER. CIRCULAR. "It will be sufficient if the Ordinaries themselves, having considered the circumstances and times, and also the will of the respective government, judge that it is fitting in the Lord, should present their vows to this Holy Apostolic See for the restoration of both precepts on such a feast." "Meanwhile, I earnestly pray that your Eminence may long be happy and safe." "From the Secretariat of the Congregation for Sacred Rites, this 8th day of December, 1870." As Brother C., Bishop of Ostia and Velletri, CARDINAL PATRIZI, S.R.C., Prefect; Dominic Bartolini, S.R.C., Secretary.

By laws, which are not in conformity with Church law; or through the insistent petitions of those who administer the republics, who with blind

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eyes regard the public worship of God, and who denounce it as harmful to the people; or for other reasons, the Holy See, in these last centuries, has been compelled, by its authority, to grant a cessation of the precept for some universal feasts in various regions, or even throughout the world.

It is also appropriate to mention the general Decree of the Congregation of Sacred Rites concerning the choosing of celestial patrons, which is still in force, and which was issued during the time of Urban VIII, when the Holy See was not compelled to grant a cessation of the precept, but rather was compelled to restrain the multiplication of such feasts. The Decree reads as follows: "The Sacred Congregation, with the approval of His Holiness [Urban VIII], regarding the choosing of patrons for places in the future, has ordered that the following be observed: 1° That only those who are venerated by the universal Church as Saints may be chosen as patrons, and not merely the Blessed. 2° That the choice of a patron for a city must be made by the people through a general assembly of that city or place, and not merely by officials; and that the consent of the Bishop and clergy of that city must be obtained. The same must be observed for the patron of a kingdom, who must likewise be chosen by the people of the individual cities of the province, and not by the representatives of the kingdom, unless they have a special mandate, and also with the consent of the Bishop and clergy of those cities. 3° That the reasons for the election of new patrons must be presented to and examined by the Sacred Congregation; and that, once the reason is known, it must be approved and confirmed by the same Congregation. And so that the ignorance of the foregoing may never be alleged at any time, the aforementioned Congregation ordered that this Decree be printed. March 23, 1630."

This is the method and order that must be observed (at least in substance) for choosing new celestial patrons, although Fermo, in a later Constitution of Urban VIII, as I have explained, did not follow this. I believe that, if the same method and order had also been followed when the matter of reducing the number of feast days was considered in recent centuries, perhaps fewer feast days would have been abolished among Christian peoples.

[*Latin ed. p. 197*]

197 FROM THE SACRED CONGREGATION FOR INDULGENCES. DECREE VALID THROUGHOUT THE CITY AND THE WORLD. From an audience granted by the Most Holy [Pope] on October 6, 1870. "Among the other conditions which must be observed in performing the works prescribed for gaining Indulgences, it is required that they be performed within the time limit established in the grants. In order that the faithful may be more easily encouraged to gain these [Indulgences], this Sacred Congregation for Indulgences and Sacred Relics, with the approval of the Supreme Pontiffs, has considered it opportune, either through a benign interpretation or through grants, to provide for this matter concerning

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the prescribed Confession and Communion. Hence, by a Decree of May 19, 1759, it was established that Confession suffices if it is completed even on the eve of the feast for which the Indulgence is granted; and also, by a Decree of June 12, 1822, it was declared that Communion may be received on the eve of the feast." Although these grants left no room for doubt concerning those Indulgences which are granted for feasts properly so-called, that is, beginning from the first vespers until sunset on the same day of the feast; so that it is permissible for the faithful to confess and to receive the Holy Synaxis even on the very day of the feast; nevertheless, more doubts arose concerning whether the same could be said of other Indulgences, which are to be gained within the space of one day, beginning at the start of the natural day, which, namely, are granted not by reason of a feast occurring, but for any other reason whatsoever; as is commonly the case for the Saturdays of March, on Sundays preceding the feast of St. Aloysius, during the Forty Hours devotion, and in other similar cases. Therefore, Our Most Holy Lord Pope Pius IX, in an audience granted to the undersigned Cardinal Prefect of the same Sacred Congregation on October 6, 1870, in order to remove all reason for doubt and to make it more convenient for Confession and Communion, to be held—"

[*Latin ed. p. 198*]

198 DECREE. It was benevolently declared and decreed that, as is declared and decreed in this Decree, it is possible to perform, either Confession alone, or Confession and Communion, on the day immediately preceding the day for which any Indulgence has been granted, not only because of the feast day occurring according to the aforementioned Decrees, but also for any other reason, or for devotion, or for pious exercise, or for solemnity, as would be the case for the aforementioned days and others of this kind, for which an Indulgence with the condition of Confession and Communion has already been granted, or will be granted in the future, provided that the time for acquiring it is counted from the beginning of the natural day, and not from the first Vespers; provided, however, that the general rule regarding the manner and time prescribed in the grants is observed for fulfilling the other prescribed works. "And His Holiness wished that nothing be considered as having been innovated with regard to the Decree of December 9, 1763, which favors the faithful who, with laudable custom, confess at least once a week, with the privileges, conditions, and restrictions therein stated (1). Notwithstanding any contrary provisions." "Given in Rome from the Secretariat of the same Sacred Congregation on October 6, 1870." A. Card. BIZZARRI, Prefect. A. Colombo, Secretary. (1) In the attached Decree, the privilege is granted to all those who, if legitimately not hindered, confess their sins sacramentally at least once a week: it is not necessary for these to confess their sins, either on the eve or on the day of the feast, in order to obtain the Indulgences of which we are speaking.

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The Decree is of the following tenor: "Since the Holy Congregation for Indulgences and Sacred Relics, on March 31, 1759, had decreed that the Sacrament of Confession, when it is included in Briefs for the attainment of an Indulgence, must be performed even by those who are not conscious of mortal sins, and that the aforementioned Confession can also contribute to the attainment of the Indulgence, if it is performed on the eve of the feast, and since His Holiness, Pope Clement XIII, benevolently approved this, and ordered it to be published in print on May 19 of the aforementioned year; numerous petitions were presented, both from Religious Communities and especially from Nuns, and also from Parish Priests and some Bishops for their dioceses, in which the greatest difficulties were exposed, which, indeed, often occur when the pious Sacrament of Confession is to be performed either on the feast day or, at the very least, on the eve. Therefore, in order that the treasure of Indulgences may indeed be made profitable to the faithful, and that it may be suitably adapted, they earnestly supplicated that, by some suitable means, a way might be provided..."

[*Latin ed. p. 199*]

FROM THE HOLY CONGREGATION OF INDULGENCES. DECREE. — On Wednesday, the 6th of September, 1870. The Holy Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, appointed by the Most Holy Pope Pius IX and the Holy Apostolic See to oversee the Index of Books of Defective Doctrine, and their condemnation, suppression, expurgation, and permission throughout the Christian Republic, having met in the Vatican Apostolic Palace, on the 6th of September, in the year 4810, condemned and condemns, suppresses, and orders that the following works be referred to the Index of Prohibited Books: *La figlia di Maria, Bozzetto Sociale* by Tito Strocchi; Lucca, Bertini Printing House, conducted by G. Maionchi, 1869. *Cenni Biografici del Dottore Ferdinando Baccalari*; Bologna, Società tipografica de'Compositori, 1869. (Miscellaneous, in 8vo, 60 pages.)

Regarding the aforementioned, it was desired to seek the remedy of Apostolic benevolence. Therefore, with these prayers addressed to the aforementioned Holy Congregation in Rheims, the purpose was to inquire: "Whether and how it is to be consulted with His Holiness regarding the execution or declaration of the aforementioned Decree in this case." And the response was: "It is to be consulted with His Holiness so that he may deign to grant an Indult to all Christian faithful who strive to atone for their sins through frequent confession, to be able to approach the Sacrament of Penance at least once a week, unless they are legitimately hindered, and who are not conscious of having committed any mortal sin since their last Confession, so that they may be able to obtain all and any Indulgences, even without an actual Confession, which, otherwise, according to the definition in the aforementioned Decree, would be necessary to obtain

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them. However, nothing is to be changed regarding the Indulgences of the Jubilee, both ordinary and extraordinary, and those granted in a similar manner to the Jubilee, for which, as well as the other works prescribed, the sacramental Confession is performed at the time prescribed for their granting."

And having, as underwritten, reported all of the above to His Holiness, the Holy See, desiring to satisfy the pious desires and wishes of its people, and wishing to grant the graces of Indulgences especially to those who, by living piously and holily, are made worthy of the gifts of Divine Mercy, graciously approved, and ordered that the aforementioned Indult be issued and published in the form described above; to all those who may act to the contrary, notwithstanding.

Given from the Secretariat of the Holy Congregation of Indulgences, on the 9th of December, 1763.

[*Latin ed. p. 200*]

200 DECREE. *Saggi filosofici* (Philosophical Essays) by Antonio Lonigo, 2nd edition, and *Poesie varie inedite* (Various unpublished poems) by the same author; Florence, published by the successors of Le Monnier, 1869. *Itinerario di Dante Alighieri* (Itinerary of Dante Alighieri) by Enrico Croce, 1869, from the printing press of the Pythagorean Society "La Scuola Italica" in Livorno. *La Scienza della Ragione* (The Science of Reason) by Luigi Stefanoni, Milan, Francesco Pagnoni, printer and publisher, 1862. Decree of the Holy Office, on Thursday, January 12, 1870. *La Rivelazione della Ragione* (The Revelation of Reason), a popular physiological treatise by Father Pietro from Milan, or Pedra Pietro; Milan, printing press of "Libero Pensiero" by Francesco Gareffi, and: in Geneva, the "Razionalista" printing press of Ducommun and Como, 1866. Decree of the Holy Office, on Friday, February 17, 1870. *Le Psicopatie contagiose* (Contagious Psychopathies), a nosological essay by Dr. Giuseppe Bianco of Fossano, Turin, 1869, Printing Press of "La Gazzetta del Popolo." Decree of the Holy Office, on Thursday, June 15, 1870. *Alleanza Monteislica Universale* (Universal Monetary Alliance) (with an appendix published separately, p. 14); Florence, Florentine Publishing Society, 1870, and: Livorno, Printing Press "La Scuola Italica." *Annuaire de l'Institut Canadien pour 1869* (Annuaire of the Canadian Institute for 1869), Montreal, Louis Perraut, 1870. Decree of the Holy Office, on Thursday, August 1870. *O Papa-Rei e o Concilio* (The Pope-King and the Council) by Manuel Numes Gì raides, etc. - that is, *Il Papa-Re e il Concilio* (The Pope-King and the Council) by Emanuele Nunes Giraldes, Substitute Professor of the chairs of Political Law and Canon Law at the University of Coimbra; Lisbon, Universal Printing Press, 1870. *Die Theologie des Leibnitz aus sämmtlichen gedrukten und vielen noch ungedruckten Quellen, mit besonderer Rücksicht auf die kirchlichen Zustände der Gegenwart, zum

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ersten Male vollständig dargestellt von Dr. A Pichler Oberbibliothecar etc.* (The Theology of Leibniz from all printed and many still unpublished sources, with particular regard to the ecclesiastical conditions of the present day, for the first time completely presented by Dr. A. Pichler, Head Librarian, etc.). Second Part. In Latin: *Theologia Leibnitii ex universis editis, multisque nondum editis fontibus, cum speciali respectu ad ecclesiastica huius temporis adiuncta, nunc primum integra exposita a Dre A. Pichler, Praefecto Bibliothecae publicae imperialis Petropoli ac socio correspondente Monacensis Scientiarum Academiae.* Second Part, 1870, Munich. *Die wahren Hindernisse unde die Grundbedingungen einer durchgreifenden Reform der katholischen Kirche* (The true obstacles and the fundamental conditions for a comprehensive reform of the Catholic Church), initially in German.

[*Latin ed. p. 201*]

DECREE. Concerning the book by Dr. A. Pichler, etc. – In Latin: "True Impediments and Fundamental Conditions for the Complete Reformation of the Catholic Church, Primarily in Germany," published by Dr. A. Pichler, Prefect of the Imperial Public Library in St. Petersburg, and Member of the Academy of Sciences in Munich, in Leipzig, 1870. The author of the prohibited work, entitled "Fundamental Problems of Christian Theology" by Mariano Maresca, fully approved of and humbly submitted to it. Therefore, no person of any rank or condition whatsoever, in any place and in any language, may dare to publish, read, or retain the aforementioned work, but must, under the penalties indicated in the Index of Prohibited Books (1), hand it over to the Ordinary of the place, or to Inquisitors of heretical depravity. These matters, having been reported to the Most Holy Lord Our Pope Pius IX by the undersigned Secret Congregation, His Holiness approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome on September 6, 1870. ANTONINUS Cardinal DELUCA, Prefect of the Place. With the Seal. FR. VINCENTIUS MARIA GATTI, Order of Preachers, Congregation of the Holy Office. FROM THE SECRET CONGREGATION. FROM THE HOLY CONGREGATION OF THE SUPREME SACRED INQUISITION. Some years ago, in the renowned Catholic University of Louvain, a question concerning the inherent power of human reason was debated with considerable contention, with some Professors arguing for the absolute necessity of some external institution, so that reason, through this very external institution, as a condition without which it cannot suffice, might be sufficiently developed.

[*Latin ed. p. 202*]

202 DECREE. That knowledge of the truths of moral order may be attained: also, other similar questions which have an affinity with Traditionalism and Ontologism. Judgment concerning this doctrine was brought

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before the Holy See, and we have provided our readers with a series of documents in Vol. III, pages 206 and following, as well as pages 283 and following. The responses which were repeatedly given were that such and similar doctrines are to be avoided and cannot be safely taught by Catholic schools, as can be seen there. However, on the occasion of the promulgation of the second Apostolic Constitution of the Sacred Ecumenical Council of the Vatican, which begins "Dei Filius," in which, although the error of the Traditionalists is condemned, the doctrine concerning the necessity of some institution for the development of human reason does not seem to be directly or explicitly addressed, the question was raised as to whether this doctrine could now freely be discussed among Catholic doctors. Since some professors at Louvain maintained this, the matter was again brought before the Holy See, and the cause was known to the Most Reverend Cardinals, Inquisitors General, and I, Cardinal Patrizi, by order of the Most Holy Father, in order to preserve the purity of Catholic doctrine, wrote letters to the Sacred Prelates in Belgium on August 7, 1870, with these words: "Through the aforementioned synodal Constitution, especially through the warning related to its end (1), it is not weakened or moderated, but rather, with newly added strength, all the decrees of both the Sacred Congregations of the Holy Office and the indices published on this matter are confirmed, and especially that which is contained in my letters to the Bishops of Belgium dated March 2, 1866 (2). " (1) We remind you of the Vatican Constitution, the third warning, which you have in Vol. V, page 60: "Warnings and decrees, by which such erroneous endeavors are condemned, are expressly stated in this Constitution with these words: 'It is not enough to avoid heretical perversity, unless those errors which, more or less, are added to it are also diligently avoided; all officers..." (2) These letters are found in Vol. III, pages 2/5 and following.

[*Latin ed. p. 203*]

203 FROM THE VATICAN. PUBLICLY AVAILABLE DIPLOMATIC DOCUMENTS CONCERNING THE EVENTS THAT FOLLOWED THE VIOLENT CAPTURE OF THE CITY ON SEPTEMBER 27TH, 1870. This document, given to Papal Nuncios in foreign nations on October 18, 1870, among other things, reveals the deceptions with which the Italian Government sought to persuade other governments that negotiations had already begun between itself and the Apostolic See regarding the cessation of the civil status of the latter, while preserving the full freedom of the Catholic Church.

Most Reverend and Reverend Sir, DOCUMENT. "A circular issued by the Italian Government to its representatives abroad on August 29th of last year included a printed document, which was confidentially communicated to me, and a handwritten copy of which remains in my possession due to a purely accidental circumstance. In this document, the history is

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recounted of negotiations that are claimed to have been underway between the Government of Fiorentino and the French Government on the one hand, and between the Government of Fiorentino and the Holy See on the other, regarding what is called the Roman question."

Most Reverend and Reverend Lord, VERSION. In letters issued by the Italian Government on the twenty-ninth day of August, addressed to those managing affairs abroad, a certain written document, printed, was included, which was privately shown to me, and a manuscript copy of which I possess due to a completely accidental event. In this document, the history is recounted of those things that are presumed to have been carried out, on the one hand, between Fiorentino and the French Government, and on the other hand, between the Kingdom of Fiorentino and the Holy See, concerning the Roman question, as they call it.

[*Latin ed. p. 204*]

204. DIPLOMATIC DOCUMENTS. Lacking any precise and formal information regarding the alleged negotiations opened with France, I would not know how to determine what may have transpired, in this regard, between the governments of Paris and Florence, nor what credence one might give to the various assertions contained in the aforementioned publication, nor what line of reasoning may have guided the propositions exchanged between the two governments. However, I cannot bring myself to believe that His Majesty the Emperor of the French and his government have acted in the manner attributed to them. While their army was protecting the rights of the Holy See and preventing the complete dispossession of the Holy Father, and while they were proclaiming their concern for the cause of the Supreme Pontiff, and declaring openly to France and to the entire Catholic world that they were firmly determined to defend, alone against all, the temporal power of the Holy See, it is alleged that they simultaneously informed the King of Piedmont that they would take advantage of the vacancy of the Holy See, or of any other imminent and unforeseen event, to withdraw their troops from the territories of the Holy See without any difficulty; and that, in the meantime, they should maintain their relations with Italy.

[*Latin ed. p. 205*]

DIPLOMATIC DOCUMENTS. 205 Thus, Italy had to maintain open relations with Rome, in order to lay all the blame on the Holy Father; it was necessary to ensure tranquility in the Kingdom of Naples, and to influence public opinion, and the French Government would not cease to be concerned about the Roman question in a way that was entirely benevolent and friendly to Italy. Even if all other external arguments were lacking, a fact that is of public knowledge would be sufficient to confirm me in this opinion: namely, that the Imperial Government resolutely refused to sub-

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mit the famous project drawn up by Baron Ricasoli for the approval of the Holy See. Another equally significant fact is that the Imperial Government, with the new expedition of 1867, opposed the Garibaldian invasion, which was provoked, favored, and supported by the government of Florence; it even solemnly declared, from the high platform, by order of Mr. Rouher, that Italy would never be able to seize Rome and the territories left to the Holy Father under the protection of the French flag. Therefore, I believe that the first, and perhaps the only, act of good faith that Italy could have performed in these last ten years, was to clearly demonstrate its intention not to...

[*Latin ed. p. 206*]

206 DIPLOMATIC DOCUMENTS. Perhaps the only act of good faith of which Italy can boast during these ten years was its frank confession of the intention, as it actually did, to take advantage of the war between France and Prussia to carry out the unjust spoliation of the Supreme Pontiff. Indeed, it had availed itself of the principle of non-intervention to undertake its usurpations throughout the Peninsula. Therefore, leaving aside this historical part of the aforementioned document, I wish to address here the other part, relating to the discussions between Italy and the Holy See. First of all, I will ask who were the negotiators mentioned, when did they arrive in Rome, what proposals did they make, with whom did they negotiate? And since the main support for these alleged discussions consists of a meeting that supposedly took place between the late Cardinal Santucci and the Abbot Passaglia, I can assure, with the original documents in hand, that Cardinal Santucci never saw Abbot Passaglia as an official or unofficial negotiator sent by Count Cavour, nor did he himself act as such; but rather, both maintained conversations within the limits that befit those conversing with each other.

[*Latin ed. p. 207*]

DIPLOMATIC DOCUMENTS. 207 that Abbot Passaglia never presented himself as such; but both have limited themselves to an exchange of ideas, as may occur between two people who know each other. It is false, moreover, that the Cardinal undertook to submit, or that he submitted to the Holy Father, a project of reconciliation based on the full freedom of the Church and the complete cessation of temporal power. It is even more false that His Holiness was struck and convinced by the wisdom of these proposals, considering them still as a concession and a benefit from the Government of Turin. Following this exposition of facts, the Holy Father would therefore have regarded this complete stripping of his domains as better and more acceptable than the project already rejected of entrusting the Vicariate of the Romagna to King Victor Emmanuel, while reserving a semblance of sovereignty for the Holy Father. "Therefore, it is a complete

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fabrication what is added regarding the dissolution of the oath imposed on the Cardinals, and from which Santucci and I would have been freed by His Holiness, but it is false that the Cardinal promised, or actually promised, to the Supreme Pontiff certain conditions of reconciliation, which indeed would undermine all manner of ecclesiastical freedom, and the perfect abolition of temporal power. It is also false that the Most Blessed Father was struck and convinced by the wisdom of these conditions, indeed, that he received them as a concession and an indulgence from the Subalpine Government. From this exposition of facts, therefore, the Supreme Pontiff would have considered this complete stripping of his own domains to be better and more acceptable than the plan already rejected, of entrusting the Vicariate of Emilia to King Victor Emmanuel, while reserving a semblance of power for the Holy Father himself. Therefore, it is a complete lie what is added about the absolution from the oath imposed on the Cardinals, and from whose bond the Most Holy Father freed Cardinal Santucci and myself, so that we could act on the extinction of temporal power, based on the aforementioned foundations. To expose such facts is nothing other than to demonstrate the impossibility of those things. I will not follow the author of this document in his narrative."

[*Latin ed. p. 208*]

208 DIPLOMATIC DOCUMENTS. in order to be able to undertake, on the basis indicated, negotiations for the cessation of temporal power. To state these facts is to demonstrate their impossibility. Furthermore, I will not follow the author of this official account in the exposition of the phases through which he claims these negotiations passed between myself and Italian intermediaries. This entire story seems to have no other foundation than a pamphlet published some time ago by a certain Abbot Isaiah, who was in contact with the late Cardinal D'Andrea, and by a certain Aguglia, a Sicilian lawyer, who had come to Rome to resolve some difficulties that had arisen in the Kingdom of Naples concerning the Constantin Order. "However, if one wishes to assess the veracity of these individuals and the nature of the conversations I had with them, one must consult the article in the *Giornale di Roma*, from which their impudent calumnies were categorically refuted. Today, I simply appeal to the very words of the document of which I am speaking. Now, this states that on April 5, 1861, I declared that the Holy See, always prepared to endure violence, would never consent to negotiate with Italy; that the question of temporal power pertains, by its very nature, to the benefit of the entire Catholic world; and that the Holy See awaits a solution that is congruent with its rights and desires, based on the course of events. And if, despite this, some public

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document

[*Latin ed. p. 209*]

DIPLOMATIC DOCUMENTS. 209 This temporal matter, by its very nature, concerned the interests of the entire Catholic Church, and the Holy See would expect from these events a resolution that would be in accordance with its rights and its desires. — If, nevertheless, a public and solemn document is desired, which would attest to how the Holy See has considered this matter, and what judgment it has formed on the actions that have been carried out, and on those that were threatened to be carried out further to its detriment, as well as on the principles professed and the acts of the Government of Italy, I will cite the Allocution pronounced by the Holy Father in the Consistory of March 18, 1861 (1). "But what is the use of producing documents and irrefutable proofs? For it is publicly known that the Government of Fiorentino itself, in order to justify its unjust proceedings, has always alleged the tenacity of the Holy Father in refusing to enter into negotiations, and the *non possumus* opposed by His Holiness to any negotiation that did not tend to fully restore its sovereign rights. On the other hand, not wishing that the interests of the Church should suffer, His Holiness did not hesitate to declare that He was willing to enter into agreements, so that He might consider the needs of some of the many Sees in Italy deprived of their Pastor, and at the same time settle other religious matters. (1) This Allocution is found in this Volume, page /75 and following, and in the Acts, Volume VI, page LXIV.

[*Latin ed. p. 210*]

210 DIPLOMATIC DOCUMENTS. "He expressed his strong desire to initiate negotiations to provide suitable candidates for some of the numerous vacant bishoprics in Italia, and at the same time to regulate other religious matters." The gentlemen, Commendator Vegezzi and Advocate Tonello, can testify to the kind reception they received here, and to our diligence in doing everything possible to achieve the desired goal, so that their mission might be accomplished to our mutual satisfaction. Furthermore, the Holy Father did not refuse to allow the various Pontifical Administrations to communicate with the corresponding Administrations of Firenze, so that, through mutual agreements, the interests of the inhabitants of the two neighboring countries might be promoted with regard to customs, the postal service, and the telegraph; He even went so far as to reduce the customs duties for the import and export of various goods, thereby allowing Italia to benefit from the advantages that Francia enjoyed under a special trade treaty." I will also recall that the Pontifical Government always showed the greatest concern in providing what was almost daily requested in the name of Italia, first by the ambassador of Gallia, then by the Portuguese legation, then to apprehend and remove those wicked men

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who had fled to Pontifical territory; then to carry out civil and criminal court proceedings.

[*Latin ed. p. 211*]

DIPLOMATIC DOCUMENTS. 211 so that daily matters were brought to his attention on behalf of Italy, first through the French ambassador, and then through the Portuguese Legation, both to proceed with the arrest and extradition of criminals who had taken refuge in the Papal territory, and also to receive communications regarding the proceedings of civil or criminal courts, and to urge the resolution of pending matters in the interest of justice, and finally to render those numerous and varied services that were required by the position and respective condition of the two countries. "All that which precedes clearly demonstrates that, if the Holy Father, in order not to betray his conscience, violate his oaths, and in some way sanction the unjust principles proclaimed by the government of Victor Emmanuel, consistently and absolutely refused to enter into agreements conforming to the views of this [government]; on the other hand, he did not fail to receive favorably and to follow up on proposals and reforms that were such as to improve the relations of his subjects with those of the neighboring kingdom, or to protect the interests of the Church. These actions clearly show that the difficulties encountered by the Italian ministers in Rome, which are turned against the Supreme Pontiff as blame and crime, originate from a higher order of ideas, and not from mere and ridiculous rivalry, which sometimes arises between neighboring governments, but which in the present case stems from inexcusable precedents."

[*Latin ed. p. 212*]

212 DIPLOMATIC DOCUMENTS. And of which complaint and accusation are made against the Holy Father, derived their origin from a higher order of ideas, but not from that narrow and petty antagonism that sometimes animates two neighboring governments, and which, in the present case, would have been fully justified by inexcusable precedents. Therefore, we remain convinced that, given the existing state of affairs between the two countries; given the relations of the two governments and the absence of any real or even apparent reason that justifies an invasion, everyone must be persuaded that the usurpations committed to the detriment of the Holy Father and the imprisonment that is inflicted upon him, after having bombarded the very capital of his states, bear a particularly odious character, of which no example is found in the history of the civilized world. The very date and the content of the document to which I am responding show what good faith and intentions the government of Florence had regarding the domains of the Holy See. This date shows that as early as the month of August, it had already prepared what was to be carried out on September 20th under the guise of another pretext. *Dentibus omni prorsus culpae

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specie fuisset liberata.* Therefore, we persist all the more firmly in our opinion, having considered the state of affairs between the two regions, having considered the relations of both governments, and lacking any real or, at least, apparent reason that would justify aggression, it must be held certain that the usurpations committed to the detriment of the Supreme Pontiff, and the captivity that he is forced to endure, after the very city itself has been attacked with projectiles, bear a most execrable character, of which there is no example in the history of civilized nations. The very date inscribed on the document, of which I speak, and its content, reveal the good faith and intentions with which the government of Florence regarded the domains of the Holy See. This date shows that this government had already prepared, as early as the previous month of August, what was to be carried out on the twentieth of September under another guise. Since I believe that the letters and the document of which I speak were presented to the Most Excellent Lord Minister of Foreign Affairs, it is my duty to correct any inaccurate ideas that the reading of these might perhaps induce in his mind. Therefore, I grant you authority, Most Illustrious Lord, from—

[*Latin ed. p. 213*]

DOCUMENTARY DIPLOMATIC. 213 "Since I must presume that the aforementioned circular and document have been communicated to the Most Honorable Minister of Foreign Affairs of..... it is my concern to correct any inaccurate ideas that might remain with him; accordingly, I authorize Your Most Illustrious Lordship to avail yourself of the preceding reflections, not only to refute so many false allegations, but also to demonstrate that the very concern shown to mislead his good faith is a certain indication of the conviction one has of the injustice of one's own cause."

"Gradisca, etc."

"Rome, 17th of October 1870."

"G. Cardinal ANTONELLI"

"Having considered the matter thus far, I authorize you to use these reasons, not only to repel so many false propositions, but also to demonstrate that even the concern shown to mislead others in their good faith is an evident sign of the certainty of the injustice of one's own cause. Finally, with all due respect, and etc. Rome, on the 17th of October 1870. I. Cardinal ANTONELLI."

[*Latin ed. p. 214*]

214. This DOCUMENT, in a diplomatic dispatch dated November 8, 1870, addressed to the Most Eminent Italian Minister, Mr. Antonelli, recounts the sentiments of the Roman people, who, having been stirred up with great diligence, held a so-called Roman Plebiscite, in order to legitimize the violent occupation of the City; and furthermore, that Minister promised that, with the proper order of things, the future

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would be prosperous under the Catholic faith. To the Most Illustrious and Reverend Sir, DOCUMENT. "It will certainly not have escaped the attention of Your Excellency, a circular from Mr. Visconti Venosta dated October 18, in which he attempts to justify the usurpation of the Holy See's territories and the acceptance made by King Victor Emmanuel of the so-called Roman plebiscite. The usual phrases devoid of meaning, and facts contrary to the reality of things, although presented before the eyes of all, form the basis and the essence of this diplomatic document." The Minister begins by extolling the freedom and spontaneity of the vote of adherence to the Italian monarchy, pronounced by the Roman people on October 2, as if Europe, and indeed the Lord, were unaware. I do not believe, Most Illustrious Lord, that You are unaware of the circular letters sent by Count Visconti Venosta on the eighteenth day of the month of October, in which he presumed to justify the seizure of the territories of the Holy See, and the acceptance of the so-called Roman Plebiscite, carried out by King Victor Emmanuel. The basis and the essence of this diplomatic document consist of those repeated phrases, devoid of all meaning, and facts that contradict the truth, which have occurred before the eyes of all. The Minister begins by proclaiming the spontaneous freedom of the vote (by which the Roman people adhered to the Italian monarchy) on the 2nd day.

[*Latin ed. p. 215*]

DIPLOMATIC DOCUMENTS 215, which witnessed the overthrow of the throne of a powerful monarch, barely four months after a similar and more solemn demonstration, now does not know what weight to give to demonstrations of this kind, and what force there is in such an argument; and it is all the more surprising that the aforementioned minister has resorted to this, since no one better than him should be intimately convinced that this very Europe, which is aware of what happened in Italia over a period of ten years, which does not ignore the moral means and artifices that the Italian government uses when it wants to achieve a goal, and which has formed an adequate judgment on its past conduct, will find it more difficult to admit the value of this argument, and will less readily believe that things have transpired in the way he represents. And even if one were not to consider the events prior to 1867, and those that occurred at that time, it would suffice to point out that the inhabitants of Romani gave a much more luminous and certain testimony of their true spirit and of their real intentions when, recently, surrounded by

[*Latin ed. p. 216*]

216 DIPLOMATIC DOCUMENTS. by more than sixty thousand Italians; incited with money, with emissaries, and with the supply of arms to revolt; spurred by promises, manifestos, and newspaper articles to rebel against

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the legitimate government, the Romans not only remained steadfast in their duty, but, gathering in great numbers, spontaneously offered their lives and took up arms to defend their beloved Sovereign from every attack. Therefore, it is entirely proper to ask the same minister whether he believes that the inhabitants of every other part of Italy under the government of Florence would have acted in the same way, if a foreign army had stationed itself on the border with a certain intention, and had exerted there that pressure which it would necessarily have exerted on the Romans and on the other inhabitants of the Holy Father's provinces, by the presence of Italian troops along the Papal border and in the vicinity of the very Capital. "And while it is true that a certain movement occurred after the entry of the royal troops, everyone knows that it was an inevitable consequence of the conduct then adopted, not by our Roman people, but solely by that army of countless emigrants (as they say), and of all..."

[*Latin ed. p. 217*]

DOCUMENTS DIPLOMATIC. 217 but solely from that immense throng of so-called emigrants, and of people of every kind and country, who accompanied the troops themselves. It is to be desired that even the memory of this movement be erased, so that impartial history may not record in its pages what purpose it had, the insults offered to the most respectable gentlemen of the city and to honest citizens, the bloody reprisals for which the soldiers of the Holy Father, scattered through the streets, were victims, and the looting that was inflicted upon the barracks and certain public buildings for two whole days, under the very eyes of an army that remained impassively watching. With regard to the guarantees of sincerity and publicity, from which the aforementioned Minister claims that such a vote was surrounded, I will gladly appeal to the good faith of all those who were present in Rome on the second of October, and especially to the most honorable testimony of the Foreign Representatives at the Holy See. They who were witnesses to the manner in which things were conducted; who were able to attend the vote; who had the opportunity to see with their own eyes the class and social condition of most of those who cast their votes; may they, mindful of their excellent faith, not have omitted to investigate certain things that were known to all; they, I say, of the religion.

[*Latin ed. p. 218*]

218 DIPLOMATIC DOCUMENTS. part of the voters, and that in their apparent loyalty, they have not failed to investigate certain facts that have become publicly known, they have certainly taken the trouble to report to their respective Governments what happened on that day, thus demonstrating how fallible would be a judgment based on the outcome of such a vote. Therefore, it is superfluous for me to dwell on this matter, since I am justified in believing that each foreign government has already received so

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much information as is sufficient to form an adequate and just opinion on this matter. I will rather turn to examining whether the consequences of this great event, as Mr. Visconti-Venosta calls it, instead of being favorable to the Catholic faith, as he claims, do not rather threaten and may bring about the ruin of this poor Italy. And in order not to go beyond the borders of the Peninsula, I appeal here to all those who, though driven by political passion, have not lost all sense of the Catholic faith, and I ask them whether the laws hostile to the Church already published in the kingdom; whether the subversion of all public moral principles, sanctioned by their own laws; whether the suppression of all Religious Orders; whether the confiscation of Church property; whether the captivity in which the episcopate is held; whether the conscription of young clerics; whether the prisons, in which they

[*Latin ed. p. 219*]

DIPLOMATIC DOCUMENTS. 219: Public morality sanctioned by appropriate laws; whether the suppression of all Religious Orders; whether the confiscation of ecclesiastical property; whether the stagnation in which the episcopate finds itself; whether the conscription of young clerics; whether the imprisonment inflicted upon those ministers of the Sanctuary who refuse to submit to laws repugnant to their conscience; whether the restrictions imposed on the exercise of religious worship; whether impious doctrines professed from the chairs of universities, even to the point of teaching that man originated from the ape and the soul from phosphorus, can be suitable means for maintaining the spirit of religion alive and for achieving the progress of Catholic society. And I would also like to ask whether what is happening in this Capital after the entry of Italian troops; whether the immorality that is also sought to spread among the people here; whether the contempt in which they seek to place, through engravings and lithographic and photographic reproductions, the venerable authority of the august Head of the Church; whether the dissemination of impious and obscene books, facilitated by a sale at a very low price; whether the daily and relentless war waged by the press against everything that is sacred and honorable in the world; whether the insults heaped upon priests, prelates of the Church, and even the Supreme Pontiff himself; whether the decrees already promulgated, which deprive religious houses, pious foundations, and chapters of their freedom of goods and revenues, can be considered appropriate means for fostering religious sentiments and achieving the progress of Catholic society.

[*Latin ed. p. 220*]

220 DIPLOMATIC DOCUMENTS. of a more sacred and authoritative nature on this land; if the insults are considered those directed at priests,

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at dignitaries of the Church, and even at the Holy Father; if the decrees already issued, by virtue of which the freedom of goods and revenues belonging to religious communities, to pious institutions, and to Chapters, is restricted; if the extension to the domains of the Holy See of the anti-canonical laws in force in the rest of Italia; whether these are the facts, which, according to the aforementioned minister, are sufficient to persuade Catholics that their religious sentiments are fully respected, and that the idea of law in its broadest and highest expression, in its relations between the Church and the State, can have a true Catholic application on these foundations. » The necessity that the august head of the Catholicae Religion have temporal dominion in order to exercise spiritual power with full independence is made even more manifest by what has been said so far, and is, moreover, so universally felt and so obvious that it does not require many arguments to prove it. And I am pleased to see that even the aforementioned Minister Visconti is so persuaded of this, that, wishing to reassure the Catholic world, he speaks of the empire, of extraterritorialities (as they say), of the royal prerogatives to be conferred upon the Pope, and that he himself considers these necessary. For after these things, it is no longer possible to understand how, in writing the history of the Pontificate, certain subtleties could have been overlooked.

[*Latin ed. p. 221*]

DIPLOMATIC DOCUMENTS. 221 sovereignty, of extraterritoriality, and of princely privileges to be granted to the Pope, because recognized by him as indispensable. And it is difficult to understand how, in recounting the history of the Papacy, he has resorted to certain subtleties that might be excused in the mouth of a non-Catholic, but which, when repeated by a minister of a Catholic government, cannot fail to produce both pain and revulsion. - Since a dispatch does not allow for a historical discussion, and omitting to mention that the institution of temporal power is older than the Middle Ages; and that there was a time when the moral power of the Papacy was greater than ever, I will speak of the guarantees that the Italian Government intends to offer to the Supreme Pontiff, stripped of all power, so that consciences may be tranquil and the Catholic world should not believe that its religious beliefs are threatened by the completion of Italian unity. "What faith can merit a promise from the Italian Government, even if it is solemn, even if it is sanctioned by international treaties, by laws, by decrees, by votes of Parliament, is clearly shown by the treaties of Tiguri and Villa Franca; by the actions taken against all the Princes of Italy; by the agreement of September 1864, concerning the withdrawal of French troops from the Papal territory and the obligations subsequently undertaken by the Florentine Government; by the guarantees given, at all times and

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recently, which confirm the meaning and spirit of that agreement."

[*Latin ed. p. 222*]

222 DIPLOMATIC DOCUMENTS. Zurich and Ville France; the usurpations to the detriment of all the Princes of Italy; the Convention of September 1864 concerning the withdrawal of French troops from the Papal territory, and the obligations consequently assumed by the Government of Fiorentino; the assurances given from the highest tribune, at all times, and even recently, of intending to observe its spirit and its letter; the correspondence exchanged between the two governments of Paris and Fiorentino on this subject, and the clear evidence that the commitments made and the assurances given were demonstrated in the invasion of the Papal territory, as soon as the military power of France was diminished, and in the valuable confession made in the aforementioned circular, where it is declared that the great work of the Unification begun by King Carolo Alberto, was continued and finally completed by King Vittorio Emmanuele, through his perseverance. Therefore, I believe that the Catholic world and all honest men will not easily place their trust in such a government, and that they will be even less inclined to believe it after knowing the reasons by which this bloody and shameful act is justified. When a sworn oath is broken almost as a jest, and when, contrary to all custom, every principle of honesty and justice is scorned, the right to trust is completely lost. I could therefore refrain from speaking about the twofold order of such precautions, which indeed refer to the free and continuous communication between the Pope and the faithful; to

[*Latin ed. p. 223*]

DIPLOMATIC DOCUMENTS. 22S impression. When, with unparalleled indifference, a sworn oath is violated, and with an unprecedented cynicism, every principle of honesty and justice is disregarded, the right to be believed is lost. Therefore, I could dispense with discussing this double order of guarantees, which are summarized in the free and continuous communication of the Pope with the faithful; in the maintenance of a foreign representation at the Holy See, and a pontifical representation at foreign courts; in the separation of the Church from the State; in the complete freedom to be granted to the Church, in order to eliminate the suspicion that pressure is being exerted in the decisions of the Holy See, seeking to make religion an instrument of government. Nevertheless, and without delving into a useless discussion, it will suffice for me to ask whether such guarantees will effectively protect the independence of the Pope; to eliminate every reasonable suspicion of his servitude; to preclude the way for the arbitrary actions of secular power; to eliminate the conflicts that will necessarily and at any time arise between the two authorities; to prevent the Head of the Church from becoming, due to differences of

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opinion, a political prisoner in the jurisdiction in which he resides; and to safeguard the entire Catholic world from the free exercise of spiritual power. That authority which is granted and exercised, and which therefore depends on the will or whim of the grantor, I say, this authority subsists by foreign force, and cannot exceed the limits which it itself has established, both in its internal and external conditions. Moreover, no one...

[*Latin ed. p. 224*]

224 DIPLOMATIC DOCUMENTS. It can change from one day to the next, and due to differences in opinion, the political prisoner of the State in which he resides; to reassure the Catholic world of the free exercise of the spiritual power. An authority that lives and is exercised by virtue of a concession, and consequently depends on the good will or the whim of the grantor, lives a life that is not its own, and cannot develop its influence beyond the limits imposed upon it, and permitted by its intrinsic and extrinsic conditions. Now, everyone knows that the Head of the Church needs an authority that is its own and unyielding, so that the exercise of its spiritual power is not hindered by any cause, or interrupted at any time. From this it follows that any guarantee given to Him will always be a true illusion, whenever He must remain subject to a sovereign or a lay power. "Whatever the final decision of the Italian government may be on this matter, whatever violence is used to make it accepted, whatever means are employed to induce the governments of Europe to sanction it (which I consider impossible), it is clear that the Supreme Head of the Church needs its own and unfailing authority, so that the exercise of its spiritual power may not be hindered by any cause, or interrupted at any time. Therefore, any guarantee of any kind that is offered to Him is nothing other than a true illusion, whenever He is subjected to a prince or a lay power. Furthermore, whatever the ultimate decision on this matter may be to which the Italian government descends; whatever violence is inflicted to make it accepted; whatever art is employed to extort the sanction of the European governments (which I consider impossible); the Supreme Pontiff, mindful of his offices, sacraments, and promises, will only listen to the voices of conscience, and will forever, with all his power, resist, declaring now that he is prepared rather to endure the most bitter servitude, and even to shed his blood, than to even in the slightest, or indirectly, and in appearance, fail." To you, most illustrious Lord, I grant the authority, both by this declaration, and by the reasons set forth above, to use this more and more.

[*Latin ed. p. 225*]

DIPLOMATIC DOCUMENTS. 225 The Holy Father, mindful of his duties, his oaths, and his promises, and listening only to the voice of his conscience, will constantly oppose you, and with all the means at his disposal,

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declaring himself from this moment prepared to endure a more severe imprisonment, and even death, rather than fail you in any way, even indirectly and apparently. And I authorize Your Eminence to avail yourself, both of this firm declaration, and of the arguments mentioned above, to persuade the aforementioned Minister of Foreign Affairs that the action of Italy, by coming to Rome, is an act of demolition of Catholicism, a denial of the principle of the supreme authority of the Pope and the freedom of the Church; an action that, in itself, makes any reconciliation impossible, in the sense intended and desired by the government of Florence. You may, if you so desire, also release a copy of this dispatch. With sentiments of distinct esteem, I confirm myself to Your Eminence. From Rome, 8 November 1870. Affectionately, for your service, G. Card. ANTONELLI. To the Minister of Foreign Affairs, to persuade him. The Italian government, and the very reason of the Italian government, brought into the City, is a destruction of the Catholic Church, a denial of the principle of the authority of the Roman Pontiff and the freedom of the Church; and this reason of the Italian government renders any reconciliation impossible, which that government intends and strives for. Furthermore, you are permitted to deliver a copy of these letters to you, if you so desire. Rome, on the 8th of November, 1870. I. Card. ANTONELLI. Acts, vol. VI, page LXIV.

[*Latin ed. p. 226*]

226* DIPLOMATIC DOCUMENTS. This document, dated the 9th of November, 1870, pertains to a diplomatic matter. It concerns the property of the Apostolic House on the Quirinal Hill, and relates to a bold attempt made by Antonelli to obtain the house, and the violent seizure of the property by the Italian government, to the detriment of the Holy See, which is protested against. DOCUMENT. "To the already committed acts by the Government of Florence against the domains of the Holy See, another was now added, to the detriment of the particular property of the Roman Pontiffs." General Lamarmora, in a letter dated the 7th of the current month, informed the undersigned Cardinal Secretary of State that the Council of Ministers, after careful examination, had unanimously decided that the Palace on the Quirinal should be considered the property of the State domain, and requested that the State domain itself should take possession of it, by handing over the keys, and by delegating a person to oversee the necessary formalities and the inventory of the furniture and objects therein. To this effect, he specified the following day and time. It is truly surprising that a Council of Ministers should act as a judge in defining the rights of others' property, and especially of the Palace, which belongs to the Roman Pontiffs, and from their very presence therein.

[*Latin ed. p. 227*]

DOCUMENTS DIPLOMATIQUES. 227, especially concerning a palace

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belonging to the Roman Pontiffs, which, being their residence, is therefore called the Apostolic Palace, and which has been designated for their summer residence for nearly three centuries, and which has also long been used for Conclaves and the Apostolic Secretariates. The undersigned, supported by valid and irrefutable reasons that assisted him in rejecting the request, and also out of duty to his office, as Prefect of the Sacred and Apostolic Palaces, did not hesitate to declare that he would never consent to any action that could give even the slightest indication of acquiescence to such a dispossession, and consequently, he refused to hand over the keys to the Holy Father's apartments, the doors of which had already been arbitrarily sealed. Despite this declaration, and contrary to the respect and the prerogatives of sovereignty and immunity, extraterritoriality, and princely preeminences with which it claims to surround the supreme Head of the Church, the Duke Lamarmora proceeds to the most reprehensible act, which is called Apostolicum. This palace, which for nearly three centuries has constituted their summer residence; which has also long served for Conclaves and the Apostolic Secretariates. Therefore, the undersigned Cardinal, firmly adhering to the valid and irrefutable reasons that greatly favored him in rejecting the request, and also mindful of his office, as Prefect of the Sacred and Apostolic Palaces, did not hesitate to declare that he would never do anything that could suggest even the slightest appearance of adherence to such an unjust dispossession, and therefore, he refused to ever hand over the keys to the Holy Father's houses, the doors of which had already been sealed arbitrarily. However, this declaration being disregarded, and no respect being shown for the prerogatives of authority, immunity, extraterritoriality (as they call it), and the preeminences of royal power, which the Government claims to bestow upon the Supreme Head of the Church, the Duke Lamarmora proceeds to the most egregious act of violence. Therefore, scarcely an hour having elapsed, his ministers, having broken the locks of the doors, invade the houses.

[*Latin ed. p. 228*]

228 DIPLOMATIC DOCUMENTS. violence; wherefore, scarcely had the appointed hour passed, when its delegates, having broken the locks of the doors, penetrated within, taking possession of the palace at the Quirinal, property of the Roman Pontiffs. Therefore, since the Holy Father is unable to resist this force, nor does He wish to prejudice in the slightest degree the rights of property concerning said palaces and all the effects contained therein, the undersigned Cardinal has been ordered to issue his formal protests concerning this matter, and to inform Your Excellency thereof, praying that you bring them to the attention of Your Royal Government, so that it may be made more evident to them the insults which the Holiness is daily forced to endure, and that they may be spurred to take action so that

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an end may finally be put to the intolerable state of affairs created in the domains of the Holy See by the Government of Florence. The undersigned Cardinal takes advantage of this opportunity to reaffirm to you, Most Excellent Lord, the sentiments of his particular regard. I. Cardinal ANTONELLI.

[*Latin ed. p. 229*]

This document, issued by the Italian Treasury, dated the 25th of November, 1870, recounts a public act: the seizure of newspapers which had reproduced the Encyclical Letter of the Most Holy Father of that same year, a measure undertaken to prevent their being stripped of their licenses, and it promises that such measures will be taken: by this, it is ferociously and forcefully demonstrated to the people what true freedom is, a freedom granted to the Most Holy Father, within his own civil rights, and furthermore, that certain nefarious laws do not conform to the will of God.

Most Illustrious Lord, DOCUMENT. "As further proof of the loyalty with which the Government of Florence intends to maintain the promises made and the assurances given to the Catholic world, when it deprived the Holy Father of the remainder of his temporal dominions, and to demonstrate ever more clearly what independence and freedom have been granted to the Roman Pontiff in the exercise of his spiritual power, the seizure of those newspapers is to be noted, which, for the first time in Florence, Turin, and Rome, reproduced the Encyclical Letter of the Holy Father. The most valid argument for convincing oneself that the Supreme Head of the Church cannot be subjected to any foreign power, and that the state of affairs brought about by the usurping Government is intolerable, is..."

Most Illustrious Lord, VERSION. "In order that faith may be ever more confirmed, that the Government of Florence intends to keep the promises and assurances given to the Catholic world, when it deprived the Most Blessed Father of the remainder of his dominions; and that it may be more clearly known what independence and freedom have been granted to the Roman Pontiff in the exercise of his spiritual power, the seizure of those newspapers is to be noted, which, in Florence, Augsburg, Turin, and Rome, first reproduced the Encyclical Letter of the Most Holy Father. The most valid argument for demonstrating that the Supreme Head of the Church cannot be subjected to any foreign power, and that the state of affairs induced by the usurping Government..."

[*Latin ed. p. 230*]

230 DIPLOMATIC DOCUMENTS. "Indeed, this most deplorable decree provides a means by which the voice of the Master of the Nations may spread throughout the world." And so it is, that the fears that were conceived when this papal act was to be made public, and the precautions taken to avoid the vigilance of the Italian authorities before it reached the

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hands of the bishops, find full justification in the actions of the government. From this, it can also be deduced what fate would be reserved for the Supreme Pontiff, if he were ever compelled to condemn actions contrary to the views of the secular power; and the Lord Visconti-Venosta, who boasted of having promised the dissemination of the Brief, by which the conciliar meetings were suspended (a suspension, which, given the political conditions of Rome at that time, is now seen as a most wise decision), must now be silent, lest the Catholics repeat to him that the permission was granted because the papal act was pleasing to his government, which could not tolerate the gathering of the bishops and the good that resulted for the Church. Yesterday was the anniversary of the day when the capital sentence was carried out against the infamous Monti and Tognetti, who were guilty of...

[*Latin ed. p. 231*]

DIPLOMATIC DOCUMENTS. 231: They had conspired with a mine, and for the paltry price of twenty scudi, they destroyed the Serristori barracks, causing twenty-seven individuals to become victims of their ferocity. And it was a singular providence that an entire battalion of Zouaves, who had just left to perform their duties in the city, were not buried there. This deed, worthy of a savage horde, and which, for the sake of civilization, ought to be consigned to perfect oblivion, was instead to be celebrated with public demonstrations. To this end, a program was drawn up by the popular circle and posted in the streets, inviting the people to gather in large numbers, in order to proceed with the exhumation of the two bodies, and to solemnly transport them from the cemetery of Saint John the Baptist to that of Saint Lawrence at Campo Verano, and it was announced that a subscription was being opened to collect donations intended for a monument in their honor. "However, if this so shameful demonstration did not take place, it was due to the strong protests of the Brothers of the pious Union of Saint John, and of other respectable individuals, who invoked the intervention of the troops. It is enough to mention these facts to..." Here, the Monti and Tognetti, infamous men, are mentioned, who, lured by the vile price of twenty scudi, entered the military station of Serristori through a tunnel, causing the death of twenty-seven men. And it is certainly to be attributed to the singular counsel of divine Providence that an entire cohort of Zouaves, who had just left to perform their vigils in the city, had escaped death in this way. This deed, worthy of the hordes of barbarians, and which, for the sake of civilization, ought to be consigned to perpetual oblivion, was proposed to be celebrated with public demonstrations. Therefore, a program was drawn up by the popular circle and publicly affixed, urging the people to gather together to exhume the two bodies, and to solemnly transport them from the cemetery of Saint John the Baptist to the cemetery of Saint

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Lawrence outside the walls at Campo Verano. Furthermore, a collection of money was announced for a public monument to be erected in their honor. However, if this demonstration, so shameful in its effect, was frustrated, it was due to the vehement protests of the Brothers of the Pious Sodality of Saint John, and of other most distinguished men, who invoked the intervention of the military. It suffices merely to mention such things...

[*Latin ed. p. 232*]

232 DIPLOMATIC DOCUMENTS. To demonstrate to what degree of moral civilization the people are intended to be led. And to those who dare to assert that the personal liberty of the Pontiff is in no way constrained, it is permissible to ask, whether the supreme Master of the principles of justice, whether the Sovereign of this Rome, could freely wander among those who decree honors, who hold festivals, and who exalt to the heavens those who have been and are the most bitter enemies of Him. "The French Revolution of the past century, its horrors and its orgies, find only a parallel in what is happening in this miserable city after the entry of the Italian troops." With sentiments, etc. Rome, November 25, 1870. "G. Card. ANTONELLI." To act in such a way as to make it clear to what degree of moral civilization the intention is to lead the people. Meanwhile, it is permissible to inquire of those who dare to assert that the personal liberty of the Pontiff is in no way infringed, whether the supreme Master of the principles of justice, whether the Prince of this Rome, could freely wander among those who bestow honors, who hold festivals, and who exalt to the heavens those who have been and are the most bitter enemies of Him. What is happening daily in this miserable city since the entry of the Italian troops certainly provides an image of the depravity and licentiousness that occurred in the French Revolution of the previous century. With sentiments, etc. Rome, on the 25th of November, 1870. I. Card. ANTONELLI.

[*Latin ed. p. 233*]

DIPLOMATIC DOCUMENTS. A document dated December 12, 1870, addressed to the constituted authorities of the Roman state, concerning the insults and outrages committed against the sanctity of the Vatican, and the sacrilegious acts perpetrated on the solemn day of the 233rd anniversary of the Pontiff, which occurred on the preceding days, are exposed, along with the civil offenses committed by the most honorable citizens against the tomb of Saint Peter. DOCUMENT. "I believe I have informed Your Most Illustrious Eminence of the sacrilegious acts committed within the Vatican Basilica on the morning of the 8th, and of the bloody insults suffered by those faithful who, in large numbers, had come to visit the tomb of the Prince of the Apostles." It was to be hoped that, after these events, which had deeply saddened the citizenry, the governmental and military authorities would employ all means to prevent their repetition. But this hope, like

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every other hope conceived thus far, has vanished, and has proven to be, as it truly was, a mere illusion. What occurred in the following days, the 9th and 10th, and yesterday, Sunday the 11th, clearly demonstrate that honest and peaceful citizens cannot rely on the intervention of the authorities, nor on the numerous forces at their disposal. VERSIO. "I recall to you, Most Holy Lord, that I have already informed you of the sacrilegious crimes committed in the Vatican Basilica on the eighth day of this month, and of the bloody insults, of which the most devout men were victims, who had come in great numbers to see the tomb of the Prince of the Apostles. Furthermore, it was to be hoped that, after such events, which had deeply grieved the citizens, the civil and military authorities would exert all their power to prevent them from being repeated again. But this hope, as well as all the others conceived thus far, quickly vanished, and proved to be, as it truly was, a mere illusion. What happened on the subsequent days, the ninth and tenth, and also yesterday, clearly demonstrates that honest and upright men cannot rely on the intervention of the authorities, nor on the numerous forces at their disposal."

[*Latin ed. p. 234*]

2S4- DIPLOMATIC DOCUMENTS. The forces at their disposal when it comes to defending their persons and safeguarding those principles which they hold most sacred and dear in their hearts. Therefore, a pretext was needed to continue the popular movement already begun on the eighth day, and this was provided by revolutionary journalism, which began to spread the rumor that Colonel Azzanesi of the disbanded Papal militia was the one who, the day before, had led the alleged demonstration to the Vatican. This simple indication was quite sufficient to induce the rabble to gather beneath a house where Azzanesi happened to be staying, and to demand his surrender with whistles and shouts. Persuasions and advice were of no avail in dissuading the ill-intentioned from this heinous undertaking; indeed, emboldened by impunity and the complete absence of public force, they began to force the entrance door in order to achieve their desired goal. And they would certainly have succeeded, if the inhabitants of the house themselves had not devised a plan to remove Azzanesi from the roof, and in this way had not provided him with an escape route to a nearby street, from where it was easy for him to evade the hands of these people and save his life.

[*Latin ed. p. 235*]

DIPLOMATIC DOCUMENTS. 235 "Meanwhile, certain distinguished gentlemen on the Via del Corso and during their customary walks were subjected to insults and abuse; and they would have suffered very grave harm if they had not taken precautions to ensure their safety. Later that evening, another scandalous demonstration took place near a certain house

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where many young men from the most respectable Roman families were gathered, known for their religious sentiments and their devotion to the Pope. "However, what is most distressing, and what should cause the greatest astonishment, is that, after the beautiful and repeated promises of respect and reverence for the Pope, and after the pronouncements of both official and unofficial newspapers regarding the full freedom of the Holy Father, it happened that, while the aforementioned lamentable events were taking place in the center of the city, disturbances of the same kind as those of the previous day were also renewed, in a different way, at the Vatican and under the very eyes of the Pope. Therefore, once again, all those who entered or left the palace for any reason were disturbed by obscene words and insults from a group of people stationed in front of the main gate, amidst a detachment of Italian guards stationed there. While these things were happening, several distinguished men in the very heart of the city, where many people are accustomed to walk, were subjected to insults and abuse; and they would have suffered very grave harm had they not taken steps to protect themselves. Earlier that night, another uproar also occurred near a certain house, where many young men from the most prominent Roman families, conspicuous for their religious sentiments and their utmost devotion to the Pope, are accustomed to gather. But what is even more distressing, and what causes even greater astonishment, is this: after the beautiful and repeatedly made promises of respect and reverence for the Pope, and after the pronouncements of both official and unofficial newspapers regarding the complete freedom of the Most Blessed Father, it is the case that, while the most lamentable events, as we have described, were taking place in the city, disturbances of the same kind as those of the previous day were also renewed, in a different way, at the Vatican and under the very eyes of the Supreme Pontiff. Therefore, everyone who entered or left the palace for any reason was subjected to insults and obscene words by a certain throng of people stationed in front of the main gate, amidst a detachment of Italian soldiers stationed there."

[*Latin ed. p. 236*]

236 DIPLOMATIC DOCUMENTS. "Later, certain groups would accost those former gendarmes or Swiss Guards who were passing through the square in civilian clothes, and proceed to arrest them, leading them to prison with shouts and hisses. This disorder was repeated on the 10th and also on the 11th, without any impediment whatsoever being offered by a government that had the duty and the power to prevent it. I shall say nothing of the cries and death threats directed at the Pope and the highest dignitaries of the Church, which are constantly heard in the streets of the city and even in the vicinity of the Holy Father's residence; I shall say nothing of the insults that were hurled at some priests, one of whom even received a blow to the head with a stone, nor of the outrages that

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those who profess a sentiment of piety had to endure. And it has come to such a point, on the one hand, through the audacity of the factions, and on the other, through the indolence, to say nothing of the complicity, of the authorities, that anyone who goes to church must fear for their own safety, and especially in those churches that, due to the usual gathering of the faithful, are more frequently targeted by the dominant party." "From what has been said so far, it is clear that there is a pre-..."

[*Latin ed. p. 237*]

DIPLOMATIC DOCUMENTS. 237 concept. And this is summarized in the intention manifested by the press, namely, to compel the Holy Father to remove the Swiss Guards, and those few guards, who serve for the protection of the Vatican, from his palace, and to entrust it either to the national guard, which has among its captains a Tognetti and others of a similar ilk, or even to regular troops, whose spirit and intentions are far from reassuring. It is easier to imagine than to recount the distress in which the mind of the Holy Father finds itself because of this accumulation of events. And these distresses necessarily double when one reflects that the audacity of the factionalists grows and becomes more fearsome the more lenient the authority appears in suppressing it. And I do not believe I am far from the truth in thinking that what is happening here, and what may happen, namely, the continued disorder since the entry of the troops to this day, and the tolerance on which reliance is placed and which is professed when it is a matter of causing offense to the person and dignity of the Pope, are the means by which the departure of the Holy Father from Rome is to be achieved.

consilium maturavi; quod quidem consilium in proposito iam per ephemerides manifestato perstringitur, cogendi nempe Beatissimum Patrem Helveticam cohortem paucosque illos milites e Palatio arcere, qui eius inserviunt custodiae, ut haec committatur vel nationali militiae, cuius inter duces famigeralus Tognetti et huiusce generis hominum alii recensentur; vel regularibus copiis, quarum spiritus ac mens nullam profecto securitatem suadent. Quibus angustiis in hoc factorum cumulo Sanctissimi Patris animus opprimatur, facilius est mente concipere, quam verbis referre. Atque hae porro angustiae graviores quoque necessario evadunt consideranti, factiosorum hominum audaciam eo magis augeri magisque timendam evadere, quo segniorem in illa reprimenda auctoritas se praebet. Neque hallucinari eum putem qui diceret, quae hic fiunt ac fieri poterunt; perturbationem ab italici exercitus ingressione ad hanc usque diem perdurantem; tolerantiam, in qua spes reponuntur, quaeque adhibetur quum de iniuria Pontificis personae dignitatique agitur inferendo; ea esse media, quibus Pontificis eiusdem ab Urbe discessum locum habere posse praesumitur.

I have matured a plan; indeed, this plan is already evident in the inten-

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tion manifested by the newspapers, namely, to compel the Most Blessed Father to remove the Swiss cohort and those few soldiers from the Palace who serve in its protection, so that it may be entrusted either to the national militia, among whose leaders is the infamous Tognetti and others of this kind, or even to regular troops, whose spirit and intentions offer no security whatsoever. It is easier to conceive in the mind than to recount the distress in which the mind of the Most Holy Father is oppressed by this accumulation of events. And these distresses necessarily become even greater when one considers that the audacity of factional men grows and becomes more fearsome the more lenient authority appears in suppressing it. Nor do I think I am mistaken if I were to say that what is happening here, and what may happen, namely, the continued disturbance since the entry of the Italian troops to this day, and the tolerance on which reliance is placed, and which is employed when it is a matter of inflicting injury on the person and dignity of the Pope, are the means by which the departure of the same Pope from the City may take place.

[*Latin ed. p. 238*]

238 DIPLOMATIC DOCUMENTS. "And I, leaving to Your Most Illustrious Lordship the task of deducing the consequences that would result from the adoption of such a course of action, preferred to inform you of so many injustices, so that you may use them to persuade the Minister of Foreign Affairs that the state of affairs is intolerable, and that, if it is an offense to the Holy Father, it is even more damaging to religion and to the Church, already so deeply distressed by the painful condition of the august Head. " With sentiments of esteem, etc. Rome, December 12, 1870. G. Card. ANTONELLA.

I, however, leaving to you, Most Illustrious Lord, the task of deducing the consequences that would flow from the adoption of such a plan, preferred to make you aware of so many injustices, that you may use them to persuade the Minister of Foreign Affairs that the state of affairs is intolerable, and that, if it is injurious to the Most Blessed Father, it is also more damaging to Religion and to the Church, already so deeply distressed by the grievous condition of its august Head. With sentiments of esteem, etc. Rome, on the 12th day of December, 1870. I. Card. ANTONELLI.

[*Latin ed. p. 239*]

DIPLOMATIC DOCUMENTS. This document, dated January 2, 1871, describes an event that occurred in Rome. King Victor Emmanuel, while visiting foreign nations, arrived in Rome on December 31, 1870, a time and manner that had not been previously arranged.

DOCUMENT. "On the night of December 30th to 31st, King Victor Emmanuel arrived in Rome unexpectedly with four of his ministers. This sudden journey, as was reported from Florence, was decided and determined

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in a council of ministers held that very morning of the 30th. To have a pretext to justify such a decision, and to diminish its importance in the eyes of diplomacy, it was decided to present the King's desire to see with his own eyes the damage caused to the population of Rome by the extraordinary flooding of the Tiber, and to bring them himself an effective remedy, encouraging with his presence the poor who had suffered from the flood. But it is not without purpose to observe that on the morning of the same day, December 30th, the Senate of the kingdom had discussed and approved the draft law for the..."

VERSION. "On the night following the thirtieth day of the month of December, King Victor Emmanuel arrived unexpectedly in Rome, accompanied by four of his ministers. This journey, so sudden, as was reported from Florence, had been deliberated and decided upon in a certain council of ministers held on the very thirtieth day before midday. To find some reason by which that undertaking might be excused on some grounds, and to diminish its importance in the eyes of foreign envoys, it seemed best to present the King's desire to personally inspect the damages inflicted upon the Roman people by the extraordinary flood of the Tiber, and to bring an effective remedy through himself, and to encourage with his presence those who had suffered a loss of property. But it is quite unnecessary to note that on the morning hours of the very thirtieth day of December, the Senate of the Italian kingdom had called a discussion and approved a bill for the..."

[*Latin ed. p. 240*]

240 DIPLOMATIC DOCUMENTS. Concerning the acceptance of the plebiscite. And what is more worthy of consideration, the law which the senators had voted on a few hours before, was confirmed and signed by the ministers during their brief stay in this city. It was published that same evening in the Official Gazette of Rome. "From all of these events, the thought naturally arises that this was done in order to, through a deed unexpectedly accomplished, silence any contrary observations that this or that power might have presented, and at the same time, to sanction, under a more solemn form, the usurpations committed to the detriment of the Holy Father and of the entire Catholic world, by presenting to the King the decree confirming them, in the very place where the spoliation occurred." "As for me, I wish to believe that this supposition is without foundation, because I cannot admit that the ministers of any kingdom could reach such a point of importunity as to force the King to undertake such an unexpected and disastrous journey, given the condition of the roads, solely in order to inflict a more grievous affront upon the dignity of

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the Pope and the sovereignty of the Holy Father."

[*Latin ed. p. 241*]

DIPLOMATIC DOCUMENTS. On the afternoon of December 31st, at 5 o'clock, Victor Emmanuel departed for Florence, so his stay in the city did not last longer than thirteen hours. Furthermore, whether due to the inclement weather, the calamities suffered by the people, or the general discontent, he received a colder and more meager welcome than could have been expected. With the exception of Prince Doria and a certain Placidi, a lawyer, the municipal authorities themselves, although invited and notified in advance, did not come to the station to greet him. The Roman people, with their natural good sense, immediately compared the spontaneous and universal demonstrations of affection for the Holy Father with those that were intended to celebrate the arrival of King Victor Emmanuel. It should also be noted that every possible means had been taken to make the event splendid in terms of numbers and acclamations, because, as people said, it was the first time that he was appearing among his new subjects. I consider it useful to dwell on this matter, because the representative of the government certainly did not fail to...

[*Latin ed. p. 242*]

242 DIPLOMATIC DOCUMENTS. To inform the Most Reverend Minister of Foreign Affairs of what occurred on that occasion, and of the impressions produced by such an event. Rome, January 2, 1871. G. Card. ANTONELLI. To inform the Most Reverend Minister of all that happened at that time, and of the sentiments with which the minds of men have been affected by such an event. Rome, on the 2nd day of January, 1871. L. Card. ANTONELLI. Document delivered abroad on January 24, 1871. It is stated that the pomp and ceremony surrounding the arrival of Prince Victor Emmanuel and his bride in Rome was remarkable, and that the manner in which the son, as leader of the newly formed society, was received and placed in freedom of thought at the Vatican, along with his wife, in Rome, with acclamation, as a prince of the Apostolic See, is worthy of mention. Furthermore, mention is made of the name given to the place, "VISIO." Yesterday (January 23rd), four hours after midday, the Prince Umberto of Savoy and his wife made their solemn entrance into Rome, and occupied the houses of the Holy Father at the Quirinal, which have been entirely transformed and adapted for the new purpose to which they are to be put. In order that all may gather together, and that signs of joy may be manifested...

[*Latin ed. p. 243*]

DIPLOMATIC DOCUMENTS. 243 In order that the people and the Princes might be the object of a demonstration of joy, notices from the Town Hall, articles in the newspapers, and proclamations from the various

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societies had invited the population to gather in large numbers to greet their arrival. The students of the University and those of the Lyceum, who were installed in the Roman College, from which the Jesuits had been expelled, were likewise obliged to go there with their respective banners. However, the reception did not present much of a festive character; and if one excepts a handful of the common people, who, gathered in the streets to the sound of a trumpet, surrounded the procession and applauded the newcomers, all the other curious onlookers, who are accustomed to gather from everywhere and for any reason whatsoever, maintained a silence full of dignity. "When the two travelers ascended to the quarter destined to become their residence, those who had shouted and applauded along the way began to demand the appearance of the Princes on the main balcony of the Palace. This desire was fulfilled before it was even expressed. In fact, that very loggia, from which the election of the Pope, Sovereign of Rome, august Head of the Church, is announced to the Catholic world, was adorned with a red silk carpet;

[*Latin ed. p. 244*]

"My Diplomatic Documents. The Prince and Princess appeared before the people. It was desired that the houses be illuminated that evening; but the inhabitants did not care to comply with this requirement, so that the city remained entirely immersed in darkness." While this was happening, the cannons of the forts were heard to boom, and the bells of the Capitol, rung as if for a day of celebration, announced to the capital of the Christian world the arrival of the eldest son of Victor Emmanuel, that King who has reduced the Supreme Pontiff, the Sovereign, the common Father of the faithful, to that painful state in which he presently finds himself. I refrain from making comments, and from speaking of the impressions that this new outrage to the supreme rights of the Holy Father and to the dignity of the Pontiff must necessarily have produced. If every good person was deeply afflicted by this, it is easy to imagine that the heart of His Holiness must have been pierced even more painfully by each cannon shot and bell, which reminded him not so much of his complete stripping away, as of those extremely grave evils that result therefrom for the religion and for the Church. *catholico terrarum orbi enuntiatur; ac Princeps eiusque uxor se populo exhibuere. Illud quoque in votis erat, ut longo funalium ordine Urbis domus noctem vincerent; ast neglexere cives desiderio huiusmodi respondere, ita ut Urbs omnino occulta tenebris latuerit. Haec dum fiebant, arcis tormenta reboabant, et campana aera Capitola tamquam in die festo pulsata, Urbi catholici orbis principi adventum nuntiabant filii natu maximi Victorii Emmanuelis, eius nempe regis, qui Summum Pontificem, Regem, communem fidelium Patrem in lacrimabilem illum statum redegit, in quo versatur impraesentiarum. Abstineo hic a disserendo fusius loquendoque de sensibus, quos necessario debuit inducere nova haec

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iniuria supremis Beatissimi Patris iuribus, dignitatique Pontificis illata. Si probus quisque vir summo est affectus moerore, pronum sane est mente concipere, Sanctissimi Patris animum acerbiori quoque dolore singulis tormentorum atque aeris ictibus fuisse perculsum, qui in eius mentem revocabant non iam omnimodam perpessam exspoliationem, quam mala illa gravissima, quae in religionem et Ecclesiam inde promanant.*"

[*Latin ed. p. 245*]

"In order that Catholics may be ever more convinced that the damages brought about by the present state of affairs are grave beyond all expression, it will suffice for me to point out that in this very Rome, the center of Catholicism, the seat of the Pope and the Supreme Teacher of truth, in this Rome where thousands of martyrs have shed their blood for the faith of Jesus Christ, and where the Princes of the Apostles rest, a Society has been established of men whom they call "free thinkers," which holds public meetings, announced beforehand by printed notices, which renders an account of its discussions through newspapers, and which will soon publish a periodical intended to combat the superstitious ideas of this religion which claims the name of Catholic. As for myself, I believe that every honest man, not to say every Catholic, who would simply cast his eyes upon all that is propagated here concerning faith and ecclesiastical discipline, upon the obscenities spread among the people, upon the artifices with which they seek to overturn the religious principle through the free distribution of Protestant books and Bibles, would easily be convinced that no other region of Europe, and no other government, would tolerate such atrocious acts."

[*Latin ed. p. 246*]

246 DIPLOMATIC DOCUMENTS. In no country of Europe, and under no government, would such atrocious assaults against the religion of the state, or even of a minority within the country, nor such bloody insults inflicted upon its ministers, be tolerated with impunity, as those which are permitted in Rome, in the presence of the Holy Father, and under the very eyes of the Supreme Pontiff. "Please accept, etc." Rome, January 24, 1871. "G. Card. ANTONELLI." Such acts of aggression against the religion of the state, or even a part of a smaller kingdom, and such bloody insults inflicted upon its ministers, and these are those which are permitted in Rome, before the Most Holy Father, and under the very eyes of the Supreme Pontiff. "Please, in the meantime, and etc." Rome, on the 24th day of January, 1871. I. Card. ANTONELLI.

[*Latin ed. p. 247*]

247 APPENDIX V. CONCERNING THE ITALIAN POPULATIONS' ASPIRATIONS, BOTH IN FACT AND IN LAW, CONSIDERED. From the acts of the Holy See, which I have explained, and which also show how,

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from the very beginning, the Piedmontese Government behaved towards the Holy See, and conversely, the history of events that occurred from the year 1848 until the present becomes clear. For, through betrayals by the Piedmontese Government, with the aid of the Emperor of the French, the principal provinces of the Papal States were invaded, and the invasion was justified under the pretext of the aspirations of the people and a hastily organized plebiscite. That government had undertaken the task of subjecting the Italian people to its own rule, expelling all other princes in Italy and establishing a new form of government. After having seized control of the principal provinces of the Papal States, Rome, along with the small regions adjacent to it, remained; but in this new administration of Italy, matters were arranged in such a way that, both because of the importance of Rome, and because of the entire Italian territory, and because of the goods of the Church which are necessary for the center of the Catholic religion, and because of the hatred towards the supreme authority of the Church, Rome could not escape the grasping hands of ambitious men in power. Indeed, I believe it is true if I assert that the first concept, which aided and spurred on their efforts to seize control of the Italian government, was the possession of Rome; although this possession was to be the last in execution. For it was only recently that the events of the year 1849 were remembered, so that the capture of Rome was first conceived, and then, in reality, sought first. However, the fact that Rome remained with the Pope for so long, within this short interval of years, is due to two principal reasons, which were scarcely foreseeable. One unforeseen reason was the immense chain of demonstrations of unwavering fidelity exhibited to the Roman Pontiff, without any opportunity being missed: such demonstrations of unwavering fidelity were increasing daily, both throughout Italy and in other Catholic nations. In Rome, however, these demonstrations took such a form that those who came to Rome were astonished, witnessing the majesty of the Roman people's union with their King! No solemn act of the Roman Pontiff was overlooked, so that...

[*Latin ed. p. 248*]

248 The Roman people, in the greatest numbers, flocked to him, acclaiming him with all manner of joyful expressions, not only as Pope, but also as King. It is worthy of note that, in past years, that is, before the beginning of the pontificate of the Most Holy Father, that very acclamation, which proclaimed the name of the Pope: "Long live Pius Ninth!" (Viva Pio Nono!), had never been heard in Rome; but always, as the Pope passed by on the streets, the people, bending their knees, invoked only His blessing with these words: "Holy Father, give your blessing!" (Santo Padre, la Benedizione!). This manner of acclaiming did not originate in Rome, but was brought to Rome by those who, shortly after, forced the Pope to leave Rome. Although, at first, this manner of acclaiming offended the ears of the Ro-

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mans, since it did not seem worthy of the highest Pontiff; later, necessity, in a way, caused it to persist, either through custom, or because it more properly signified to all good people that lost souls had been led to a wicked cause. For with this acclamation, the Roman people greeted their King, and while acclaiming him more solemnly, they added eloquent words: "Long live Pius Ninth, Pope and King!" (Viva Pio Nono, Pontefice e Re). Such immense manifestations of fidelity and genuine obedience, which astonished all those who came to Rome, were the cause that those who, considering and foretelling popular aspirations, believed that Rome, in its last days, would easily succumb and lose its life, were mistaken. But the entire Italy was languishing day by day; and the only place where true life was vigorously flourishing was Rome; therefore, if Rome were to be captured, there would be nothing left but an open assault with arms and soldiers, without any cause that could justify such an action under any pretext: and this would have to be done as quickly as possible, at the first opportunity, because, as Italy languished, that center where life persevered and flourished, was in danger of being extinguished, so that its powerful influence would not revive Italy as a whole. But truly, what opportunity was to be awaited? That which had been planned in 1867 by groups of men who intended to invade the remaining Papal territory with arms, and which had failed and been brought to shame by the Italian government. For they had already been partly cut down and dispersed by that heroic hand of soldiers, who sought death in competition for the sake of the cause of justice; and finally, with the help, not of the Emperor of Galliae (whose promises we never truly believed), but of Catholic Galliae, which, although governed in good faith, was nevertheless able to compel its own Emperor to send aid, they were utterly routed in the battle at Nomentano, although it was a successful battleground; therefore,

[*Latin ed. p. 249*]

IX. The opportunity, prepared by himself, for sending his troops to restore the overthrown order, as he had advised, was snatched away from the hands of the Italian Government; and to fabricate a plebiscite among the Roman people, according to the already established procedure. These two, therefore, were the causes, unforeseen, which constituted a most serious impediment, preventing the Governors of Italy from carrying out what they had initially conceived: namely, the complete adherence of the Roman people to their King Pontiff, and the fervor of Catholic France, never so vehement, which desired at least to preserve the rest of the territory entirely for the Roman Pontiff. And so, with these two impediments remaining, it was impossible for the Italian Government to gain control of Rome. But when the terrible hand of the Lord, who reveals Himself as King of kings and Lord of lords, humbled the Emperor of the Gauls after the solemn French plebiscite, by which he had boasted so much; when all of Gaul

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was intent on arms, to overcome its external enemy (although it still had a greater enemy within), one of the two causes ceased: namely, the one which prevented the Italian Government from seizing Rome by force of arms. Hence, the neglected cause, which could not resist, the King of Italy sent a legate to the Roman Pontiff, to explain the aspirations of the Italian people, so that, if possible, Rome and the rest of the territory might come under the Government of Italy; but in such a way that the Pontiff would remain entirely free and independent in the exercise of his spiritual jurisdiction: and many promises were made. But, as was to be expected, the aspirations were rejected, the promises were rejected, the legate was dismissed, and the Pontiff declared that he wished to defend the rights of the Apostolic See. Immediately, he sent his army, and after projectiles were launched against the walls of the City, and even against the most peaceful citizens, he easily captured the City, which he could not have obtained, nor could he have, by any other means. I said easily captured: and this not because of a lack of virtue in our soldiers, although they were few compared to the attacking army; but rather because of the kindness of the Pontiff, who, like a wise father of a family, most wisely averted the most terrible slaughter. All who were in Rome saw with their own eyes the spirit in which our soldiers were prepared: for they were burning with desire, like lions, for the moment of battle, to shed their blood for the cause of justice; and they placed their hoped-for victory with the greatest confidence in God; and if you add to this the fervent prayers offered to God by the Roman people with the Pontiff for the common cause, it will not be surprising that in the better part of the people, the opinion prevailed that the foreign soldiers would not enter Rome.

[*Latin ed. p. 250*]

2*50 APPENDIX V. Here, the Reader may understand how sorrow arises for the good, and how all wickedness is overwhelmed by grief; for it was permitted that Catholic soldiers, through no fault of their own, should, after some battles, be deprived of the aid of religion, and, ignorant of the crime committed against them, which they were called upon to endure, and which, poorly clothed and poorly fed, they suffered under the iron yoke, being held captive: and, without any delay, the Italian soldiers entered. I say nothing of our soldiers, of whom another wrote (Unità cattolica), falsely claiming that they had shown themselves to be heroes, and that they should love and venerate the Pope with a timorous heart, and that, obeying the command not to fight, they had sent their families, their most beloved, to them, as if to the last drop of blood, as they had desired, but rather that they had transferred them (1). I wish to note this in order to expose the audacity of those who do not blush to boast of the entry of the Italian army into the City, to the disgrace of our army. In Gallus (although I am not entirely certain), it was shown what spirit that part of our army, which

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had been captured, had, after having corrected their error, and after having been held by those atheists who led them, urging them that they should enter Rome, because the Roman Pontiff and the Roman people called upon them not to fight. To this was added also, by a means far more noble than any battle, not by battle, not by arms, but by another reason, Rome, that cornerstone of ours, was far more perfect than the foreign Italian army, and more prepared for battle. But that merciful God, who...

(1) The Roman merchants know how many thousands of images, signifying the Roman Pontiff, they sold to the Italian soldiers immediately upon their entry into Rome, so that they might send those images to their families in letters. Such images were conveniently transported from the City to them at that time by means of letters.

[*Latin ed. p. 251*]

251 IX v. The entire world, and all peoples, from the rising of the sun to its setting, were about to experience this! The white banner, which, at the command of the Most Holy Father, was raised atop the cross of the "Vatican temple" during the ongoing conflict, perhaps signified something unintended for the Catholic Church! With the city captured, a certain lamentable change of circumstances occurred: for immediately, turbulent crowds of people appeared, wandering through the city with wild expressions, and it was impossible to know from whence they had come; and from the lower parts of the city, with money scattered about, further crowds were stirred up, who, with a clamorous uproar, wailing, and banners, instilled terror in honest citizens, so that the only apparent safeguard seemed to be to display signs of consolation through Italian banners in the windows and to light lamps at night. But if the vaunted popular aspirations, as the royal legate reported to the Pope, had given the Italian government, according to custom, a pretext for attacking Rome with arms, then, after Rome was captured, such a pretext seemed useless to that government for justifying its wicked deed. Therefore, it was necessary to seek out some previously used Italian phrase, which, to the eyes of those who cannot or will not read, would be presented as a book and an authentic document, by which the wicked deed would appear to be justified in some way. Therefore, we were invited, with a great public clamor and a large influx of foreigners, due to the widespread distribution of money (by what title or authority, we know not), to cast our vote for our union with the government of the Italian King. As if we, wandering through the forests without a King, were about to embrace the King of the Alps! These things which we write are so childish that the consideration of them provokes indignation, that in such a criminal act, perpetrated within the bosom of the Roman people and incited by injustice, immediate and spontaneous adherence of the Roman people was proclaimed, with great pomp of words, to the Italian government. The Roman people, speaking of

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all honest citizens, remained in their homes, and indeed in the most private chambers, on the day of the plebiscite, clearly knowing the injustice and iniquity of the cause, and trembling at the criminal nature of the act. These are the things concerning the Roman aspirations, considered in the matter, which our leaders are accustomed to throw in the faces of the uninitiated, in order to defend their own cause. But let us briefly also consider what the Italian aspirations are, which the royal legate boasted of, before we legally consider them.

CONCERNING THE ASPIRATIONS OF THE ITALIAN PEOPLE, CONSIDERED IN THE MATTER.

As a pretext for attacking the city and the pontifical provinces with arms, the popular aspiration to which one could not resist was presented. To this, we offer opposition.

[*Latin ed. p. 252*]

252 APPENDIX V. It is sufficient to observe public events to demonstrate this, and I will mention only a few. First, the Italian people, with the exception of atheists who hold some position in the Italian government or aspire to it, are Catholics, and therefore they do not aspire to invade the rights of others, let alone to usurp the rights of the Apostolic See; for they would not only not fight against the Pope, but rather they would shed their blood for the Pope. Evidence of this can also be found in the soldiers themselves who were sent to Rome, many of whom, when questioned, said that they had been ordered to come to Rome because the Roman Pontiff had called them, to protect him and to establish order in Rome, completely unaware that they were arriving as enemies of the same. Indeed, they desired to see the Roman Pontiff with the utmost reverence, and since it was impossible to see him, they purchased countless images of him, as I said, to send to their families for devotional purposes. Thus, these simple soldiers, who moreover complained bitterly about the imposed yoke and the Italian government. Another public event is that the largest and most sensible part of the Italian people has never wished to interfere in the election of representatives to the Italian government, although the magistrates desired the intervention of this same sensible part, lest the royal throne be endangered by furious demagogues. Finally, and this is a very frequent occurrence, are the countless demonstrations of real obedience shown to the Roman Pontiff, whenever the Italian government has issued a law or committed acts that brazenly violated the rights of the Catholic Church. I said "real obedience," lest it be understood as that obedience which we call Jansenistic obedience, which is also demonstrated by the Royal Legate to Rome. There are abundant and excellent arguments regarding the constant demonstration of real obedience to the Roman Pontiff by all classes of people, in the Catholic newspapers of Italy; especially in those of Turin, which have deservedly earned the title "Unità cattolica." It is enough to scan these newspapers to see, in a single

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view, how the Italian people have manifested their aspirations for the sake of the Roman Pontiff, and how great offerings have been made from all of Italy, almost completely exhausted in resources, by all classes of people, as a sign and a testament against the acts committed by the government. Furthermore, it is clear to any intelligent person that the Italian people could not have aspired to annex Rome and the other Pontifical provinces to themselves, unless it were to increase their own happiness, which they obtain from the Italian government. But who would dare to say that a people is happy, which is constantly exhausted by countless taxes? And which, under the guise of freedom, is subjected to insults, injustices, and the factions of the most worthless men?

[*Latin ed. p. 253*]

What nation is it that lacks splendor in the religion it professes, that has plundered the patrimony of the Church, that has reduced its ministers to extreme poverty and dispersion, that has suppressed religious institutions, from which the poor also found solace? Which people can be called happy, that is led and guided in such a way that it is not only deprived of true religion, but also loses the sense of natural honor and justice, knowing no law other than that which fear of punishment compels it to observe? Therefore, unless one dares to say that the Italian people, by a tyrant who wished to draw the rest of the people into his own misfortune, while the latter enjoyed true civil happiness and freedom, had aspirations, if any, to join Rome and other provinces to themselves; but rather, to join Rome to itself, so that the Italian people itself might enjoy the due freedom and happiness; although these things which have been said about the Italian people are generally true and evident; nevertheless, it cannot be denied that within the Italian government itself there exists a certain group of men divided into two factions, one somewhat more moderate, the other truly satanic. This government, which impudently claims to represent the entire people, consists of these elements. The faction that I called satanic is that which easily overcomes the more moderate faction, either by clamor or by action, and much more effectively by logical consequence from the social principles that it openly professes, which originate from France. This satanic faction is that which subverts everything that has any connection with Christianity, which despises all eternal laws of righteousness and justice: it is, in a word, that which never rests (for it knows what it ultimately seeks, beyond the destruction of all), which uses kings and governments as instruments to achieve its ends with those it considers its enemies (1); and which, more than the other faction, desires Rome, and perpetually hates the Roman Pontiff, whom it considers the eternal teacher of justice.

ON POPULAR ASPIRATIONS, CONSIDERED JURIDICALLY

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He who has not obscured the reason that nature's author has given to man, understands at first glance that aspirations to achieve something do not, in themselves, confer any right: he understands, that is, that aspirations and desires are not a title to possess that to which men aspire. All who contend in court aspire to the disputed matter; nevertheless, the judge is bound to decide the matter according to the norm of justice. (1) I have written something about these people in Vol. 1, page 292, in the Annotations.

[*Latin ed. p. 254*]

APPENDIX V. But such a truth, which is most evident to the human race, and even to men living in the wilderness, is vehemently obscured by the men of this age through the use of sophisms. I will explain in what these sophisms consist, and their consequences. Just as a ship desires the harbor, a traveler desires his homeland, children desire games, young men desire pleasures, men desire honors, old men desire wealth, and the just desire heaven, so too, conversely, a thief desires theft, a vindictive man desires revenge, and a slanderer desires slander. All, in this stage of life, both good and bad, constantly aspire to something. For aspiration is an act by which we seek our happiness, to which we cannot renounce, whether we seek it well or ill, near or far. Aspiration, when considered in the abstract, as a natural inclination towards one's own happiness, has a place among the natural rights of man. This is a certain particle of truth, known to all: but because this truth is known to all, it is necessary to support the sophisms: for sophisms are given only if they contain a mixture of truth, so that false consequences are concealed: because it is not a truth of the same kind, but only a particle of truth, therefore, deceptive consequences are easily deduced from it. Therefore, since a natural inclination towards one's own happiness has a place among the natural rights of man, the sophists infer: therefore, to the extent that this natural inclination is evident, to that extent the power to act is evident. This inclination only extends, or is extended, to the extent that the object of happiness, which is an indefinite good, extends or is extended. Therefore, whatever is presented to the will under some aspect of good is the object to which the power to act can rightfully extend: therefore, our power or freedom of action is unlimited. If, therefore, our freedom is unlimited, no one can limit this freedom tyrannically; for it would limit our natural inclination towards happiness. Therefore, a Prince has no authority from himself to prescribe laws or inflict punishments, for he would limit the natural power of man to act. Therefore, there should not be such a Prince in human society, but the people are the Prince to themselves. Therefore, the people will choose some to represent their aspirations and inclinations, which they will support. These representatives of the people can only act to the extent that the aspirations and inclinations of those who elect them permit, and these should be the supreme and only rule of government; therefore, they should be removed as tyrants if they

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follow any other rule. Whatever is established according to this rule of the people's aspirations, will be established not with any other name or power than that of the people. Through this chain of sophisms, which are the principles of our social order.

[*Latin ed. p. 255*]

255. Under the concept of universal good, we can desire, will, and act; he who would prevent us from doing so would be a tyrant, since he would prohibit the attainment of our happiness, to which we naturally tend. To what standard of principles, then, are the aspirations of the people referred, which the Royal Envoy proposed to the Supreme Pontiff as a title? But further, when principles are established in this way, in which socialism, communism, naturalism, or any other system of the same kind is contained, the next step is to pantheism or atheism. For, if God is admitted as the creator of man, then the dependence of each individual man, and of the human family, on Him must also be admitted; but this dependence would not be true, if it did not carry with it obligations of obedience and submission to God: therefore, a principle of external law must be admitted, which naturally demands our duties, and thus limits our freedom. But if God were present, He would be our tyrant; therefore, either He is not present, or we ourselves are gods. For how can a youth, unrestrained and unbridled, especially if incited, be expected to behave? The masses of the people are stirred up against everything that calm reason vehemently condemns. Indeed, an unrestrained youth is easily moved by the passions of his age, especially if embellished with pompous words and presented with some authority; the unwary are deceived. But as we progress in the application of these principles, the most serious obstacles arise, which many will not dare to overcome, because the injustice of human nature is too obviously manifested. Therefore, we see in the very Italian government two factions, as I have indicated above: one which is more moderate but less logical; the other which is satanic but logical, because it is consistent with the admitted social principles. For from these principles, the latter necessarily follows: citizens cannot be legally compelled to observe the laws enacted by the representatives of the people, because the people as a whole cannot legally limit the natural freedom of action of any individual, since no one is bound by any external law. Nor is anyone bound by his own actions or promises; for an obligation arises only from some external principle that does not depend on our will: therefore, even that common principle, "faith is to be kept," must be understood, according to the explanations given, with this essential condition included: if I believe, if I will; for I am not bound by any external law, because the only norm of my actions is my inclination towards what I consider to be good. Therefore, it is the right of everyone to take from another what he wants; revenge is permissible; slander is good.

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In short, whatever appears to us to be good, since...

[*Latin ed. p. 256*]

256 APPENDIX v. Everything which appeals to fantasy, which presents something new, contrary to the order of honesty and uprightness, which, understanding only faintly the truth and salutary effects thereof, he easily represents as an obsolete and pitiable yoke transmitted and imposed by his ancestors. However, it is futile to proclaim God Himself, who created man for happiness, having proposed it as a reward which men would attain if they observed the order established by Him, the Author of nature. And that this external order, whether towards God Himself, or towards other men, or towards themselves, is eternal and cannot be changed, and therefore does not depend on human will: that such a good, without limits, to which we naturally tend, which satisfies our desire, is not to be found in this life, because the opportunities are very limited and mixed with many obstacles: such truths, known by the natural light of reason, have been spread with a most brilliant light through divine revelation, of which the Catholic Church is the infallible guardian, and its Head. I say, it is futile to proclaim such truths, when license finds its safeguard and support in the very structure of society, which places its support in that very license. From the aforementioned social principles, the following seem to me to be consequences. 1. No subject can be blamed in his conscience, if he violates the laws of the Kingdom or Empire, insofar as they are such. For we recognize only two supreme authorities in the present order of things, one of which is derived from God as the Author of nature and human society; the other is derived from Him as the Author of the supernatural order. The first authority belongs to the civil ruler, whether good or bad, whatever the form of government may be, through which that authority, which is derived from God, is administered or disregarded; the second belongs to the Catholic Church, whose form of government is established by its own Author. Therefore, if the authority with which I am speaking, if the government in which I reside, denies that it derives its authority from God, and teaches that it draws it from another source than God, then it is not an authority, but rather the highest kind of imitation of authority; and therefore, all the acts of that authority, since they do not derive from a principle which can obligate in conscience, do not seem to condemn as guilty the one who violates such acts, even if they are not dishonorable matters. 2. Assuming the same doctrine of government, whoever governs or rules in the name of the people, according to the aforementioned meaning, cannot be accused of injustice, if another were to replace him, who does not deny the authority derived from God, and who governs the people with that authority according to the eternal principles of justice, since in the natural

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order, that seat of authority, if vacant, can be occupied.

[*Latin ed. p. 257*]

MOST HOLY FATHER, POPE PIUS IX, by Divine Providence, ENCYCLICAL LETTER To all Patriarchs, Primates, Archbishops, Bishops, and other local Ordinaries who have communion with the Apostolic See. PIUS PP. IX. Venerable Brothers, Greetings and Apostolic Benediction. "When We, by the inscrutable counsel of God, were subjected to the hostile power of this city, and when We witnessed the sad and bitter events of this Our city and the civil invasion of the Apostolic See, We, in letters sent to you on the first of November of the preceding year (1), declared to you and through you to the entire Catholic world the state of affairs and the condition in which We and this city found ourselves, subjected to the excesses of impious and unrestrained license; and, in virtue of Our supreme office, We testified before God and men that We desired to preserve the rights of the Apostolic See whole and entire, and We urged you and all Our beloved sons to stir up the faithful entrusted to your care to appease the Divine Majesty with fervent prayers. Since that time, the evils and calamities that those first sorrowful experiences foretold to Us and to this city have, alas, all too truly befallen the Apostolic dignity and authority, the sanctity of religion and morals, and Our most beloved subjects. Indeed, Venerable Brothers, as the conditions of things daily worsen, We are compelled, using the words of Saint Bernard, to say: 'These are the beginnings of evils; we fear worse things to come' (2). For iniquity tends to maintain its course (1) These encyclical letters, with all the documents referred to therein, are found on page 136 and following. — (2) Epist. 243. Acts, volume VI, page LXVI, line 17.

[*Latin ed. p. 258*]

25S ENCYCLICAL LETTER. It proceeds and promotes [good works], and no longer exerts itself greatly to conceal with its poor works what cannot remain hidden, and it strives to restore, from the ruins of trampled justice, honesty, and religion, the last vestiges. Amidst these anxieties, which fill our days with bitterness, especially as we consider the daily perils and snares to which the faith and virtue of our people are subjected, we cannot, without the most grateful feelings, recall or commemorate your outstanding merits, Venerable Brothers, and of our beloved faithful whom your care embraces. In every part of the world, you, the faithful, having responded to our exhortations with admirable zeal, and following your leaders and examples, have persevered in fervent prayers for the liberation of this city, which was conquered on that fateful day; and whether through public and repeated supplications, or through sacred pilgrimages undertaken, or through constant attendance at the churches and access to the sacraments; or through other principal works of Christian virtue,

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you have considered it your duty to approach the throne of divine mercy. And truly, these fervent studies of devotion cannot fail to bear abundant fruit with God. Many good things have already resulted from them, and others which we await with hope and confidence are promised. We see the strength of faith expanding day by day, we observe the zeal of charity, and we perceive the concern in the hearts of the faithful for the labors of this See and of its Supreme Pastor, which only God could inspire, and we recognize such unity of minds and wills that, from the earliest times of the Church until this age, it could never have been more splendidly or truly said than in these our days: that the multitude of believers has one heart and one soul (1). In this spectacle of virtue, we cannot remain silent about our most beloved sons, the citizens of this venerable city, from all ranks and orders, whose love for us, and piety, and also their steadfastness, shine forth with equal brilliance, not only worthy of their ancestors, but emulating their greatness of spirit. Therefore, we give thanks to God, the merciful and immortal, for you all, Venerable Brothers, and for our beloved faithful sons, who have accomplished and are accomplishing so much in you, and in your Church, and who have brought it about that, amidst abundant wickedness, there is also abundant (1) Acts 4:32.

[*Latin ed. p. 259*]

ENCYCLICAL LETTER. 259 May grace be given, the grace of faith, charity, and confession. "What then is our hope, and our joy, and our crown of glory? Is it not you before God? The wise son is the glory of the Father. May God therefore bless you, and may He remember the faithful service, the pious compassion, the consolation, and the honor which you, the bride of His Son, have shown and will show in times of trouble and in the days of His affliction (1)."

Meanwhile, the subalpine government, while on the one hand hastening to make a spectacle of the city for the world (2), on the other hand, in order to sow discord among Catholics and to quell their anxieties, has devised a plan to establish certain frivolous immunities and privileges, commonly called "guarantees," with the intention that these should take the place of civil authority, which we have been deprived of through a long series of machinations and murderous weapons. Concerning these immunities and guarantees, Venerable Brothers, we have already made known our judgment, noting their absurdity, deceit, and mockery, in letters dated March 2nd of the present year, addressed to our Venerable Brother, Cardinal Constantine Patrizi, Dean of the Sacred College and exercising our vicariate in the city of Rome, which have recently been published in print (3).

But since the subalpine government engages in perpetual and shameful hypocrisy, and with brazen contempt joins this to our dignity and authority, demonstrating that it holds our protests, our remonstrances, and our censures in no regard; therefore, despite our already expressed judgment

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concerning these guarantees, it has not ceased to urge and promote their discussion and examination before the highest bodies of the kingdom, as if a serious matter were being considered. In this discussion, the truth of our judgment concerning the nature and character of these guarantees, and at the same time, the insidious efforts of the enemies to conceal the malice and fraud of these very guarantees, have become clearly apparent. Certainly, Venerable Brothers, it is incredible that so many errors of the Catholic faith, and indeed, so many things that openly contradict the very foundations of natural law, and so many blasphemies, as have been uttered on this occasion, could have been uttered in this very Italy, which has always boasted of its devotion to the Catholic Religion and to the Apostolic See of Rome, and which still boasts of it; and truly, with God protecting His Church, there are entirely different sentiments that are fostered by the great majority of Italians (1) St. Bernard, Epistle 238 and 130. — (2) St. Bernard, Epistle 2Í3. — (3) You have such letters below, on page 264 and following.

[*Latin ed. p. 260*]

2. ENCYCLICAL LETTER. This part, which laments and deplores with us this new and unheard-of form of sacrilege, and which has shown us, by signs and with ever greater proofs of its piety, that it is united with us in one spirit and sentiment, has taught us that it is associated with the rest of the faithful of the world. "Therefore, We turn Our voices to you again today, Venerable Brothers, and although the faithful entrusted to you have clearly indicated, either in their letters or in the most serious documents of protest, how bitterly they bear the condition in which they are placed, and how far they are from being deceived by the fallacies that are cloaked in the name of guarantees; nevertheless, We consider it Our Apostolic Office to solemnly declare to the whole world, through you, that not only those so-called guarantees which are under the care of the Subalpine Government, but also, whatever they may be, titles, honors, immunities, and privileges, and whatever comes under the name of guarantees or sureties, can in no way invalidate the free and unrestricted exercise of the power divinely entrusted to Us, nor can they undermine the necessary freedom of the Church." In view of these circumstances, as We have declared and professed many times, that no one can adhere to any agreement that in any way destroys or diminishes Our rights, which are the rights of God and of the Apostolic See, without violating the faith without fault, so now, out of duty of Our Office, We declare that We will never admit or accept, nor can in any way, those guarantees or sureties devised by the Subalpine Government, whatever their purpose may be, nor any others of that kind, however sanctioned, which have been offered to Us in place of and in substitution for the civil authority of that Principality, by which divine Providence willed to protect and strengthen the Holy See, and which are confirmed to Us both by legitimate and unshakeable titles, and by the possession of eleven

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centuries and more. For it must be plainly manifest to everyone that, if the Roman Pontiff were subject to the jurisdiction of another Prince, he would no longer truly possess supreme power in the political order, nor could he, whether concerning his person or the acts of the Apostolic ministry, exempt himself from the will of that Prince to whom he would be subject, commanding, who could even become a heretic or a persecutor of the Church, or be engaged in war against other Princes, or be in a state of war. And indeed, this very thing...

[*Latin ed. p. 261*]

FROM THE ENCYCLICAL LETTER. 261 The concession of safeguards, of which we are speaking, is not, in itself, the most evident proof. It is a matter for Us, who have received divine authority to enact laws pertaining to the moral and religious order, for Us, who are constituted as interpreters of natural and divine law throughout the world, that laws be imposed upon Us, and that these laws, which pertain to the governance of the entire Church, and whose preservation and execution are no other than what the will of secular powers prescribes and establishes? Furthermore, concerning the relationship between the Church and civil society, you know well, Venerable Brothers, that all prerogatives and all rights of authority necessary for governing the entire Church have been received by Us, directly from God through the blessed Apostle Peter, indeed, that these prerogatives and rights, as well as the very freedom of the Church, have been obtained and acquired through the blood of Jesus Christ, and are therefore to be esteemed at an infinite price of His divine blood. Therefore, it would be most improper, may it be far from Us, if We were to derive these rights of Ours, especially those which are now being proposed to be so diminished and dishonored, from the princes of the earth. For Christian princes are not the masters, but the sons, of the Church. As the most excellent light of sanctity and doctrine, Archbishop Anselm of Canterbury, aptly said: "Do not think that the Church of God has been given to you as a servant to obey you, but rather as an advocate and defender; God loves nothing more in this world than the freedom of His Church." And adding further encouragement in another place, he wrote: "Never consider that your dignity is diminished if you love and defend the freedom of the Bride of God and your Mother, the Church; do not think that you are humiliated if you strengthen it. Look around; examples are readily available; consider the princes who attack and trample upon it, and to what end do they come, to what do they arrive? It is clearly evident, it needs no further explanation. Surely, those who glorify it will be glorified with it and in it." Indeed, from what has been explained to you, Venerable Brothers, and what We have just set forth, it should be clear to no one that the injury inflicted upon this Holy See in these difficult times extends to the entire Christian commonwealth. For, as Saint Bernard said, the injury to the Apostles redounds to the glory

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of Christianity (1).

(1) Ep. 8, 1, 4.

(2) Ep. 12, 1, 4.

[*Latin ed. p. 262*]

262 ENCYCLICAL LETTER. to you, illustrious Princes of the earth; and since, as the aforementioned Saint Anselm stated, the Church of Rome suffers for all the Churches, whoever takes anything away from it, not only from it alone, but from all the Churches, is declared guilty of sacrilege (1). Indeed, there can be no doubt that the preservation of the rights of this Apostolic See is most closely connected and linked to the highest reasons and interests of the entire Church, and to the freedom of your Episcopal ministry. "Considering and reflecting on all these things, as We ought, We are compelled again to confirm and steadfastly declare what We have declared to you on several occasions, with your unanimous consent, namely, that the civil jurisdiction of the Holy See was granted to the Roman Pontiff by a singular decree of Divine Providence, and that it is necessary for the same Roman Pontiff to be able, without ever being subject to any Prince or civil authority, to exercise, with full freedom throughout the Church, the supreme power, authority, and responsibility to feed and govern the entire flock of the Lord, and to provide for the greater good, benefit, and needs of the same Church. You, Venerable Brothers, and with you, the faithful entrusted to your care, understanding this properly, are deservedly moved for the sake of religion, justice, and tranquility, which are the foundations of all good things, and you are demonstrating a worthy spectacle of faith, charity, constancy, and virtue, illuminating the Church of God, and faithfully devoted to its defense, you have propagated a new and admirable example in its annals, to be remembered by future generations. Since, however, the God of mercy is the author of these good things, we raise our eyes, hearts, and hopes to Him, and we implore Him unceasingly, that He may confirm, strengthen, and increase your excellent sentiments and the common piety, love, and zeal of the faithful; and We also earnestly exhort you and the people entrusted to your care, that, as the struggle intensifies day by day, you may cry out to the Lord with us, that He may deign to hasten the day of His propitiation. May God grant that the Princes of the earth, for whose sake it is most important that such an example of usurpation as We are suffering should not be established and perpetuated to the detriment of all power and order, may all come together in mind and will.

(1) *p. 42, l. 3.*

[*Latin ed. p. 263*]

ENCYCLICAL LETTER. May these sentiments be joined to yours, and may discord be removed, rebellions be quelled, and the pernicious councils of sects be dissolved, so that, with united effort, the rights of this Holy

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See may be restored, and with them, visible freedom for the Head of the Church, and the desired tranquility for civil society. Furthermore, Venerable Brothers, through your supplications and those of the faithful, we implore divine clemency, that the hearts of the wicked, blinded by the darkness of their minds, may be converted to penance before the great and terrible day of the Lord arrives, or that their nefarious designs may be restrained, so that they may recognize how foolish and senseless they are who attempt to undermine the rock founded by Christ and to violate divine privileges (1). In these prayers, may our hope be firmly grounded in God. "Will God turn away His ear from His most beloved Bride when she cries out against those who oppress her? How can He fail to recognize the voice from His own bones, and the flesh from His own flesh? Indeed, He already recognizes, in some way, the spirit from His own spirit? Now is the hour of malice, and the power of darkness prevails. But the final hour is at hand, and the power of darkness quickly passes. The power of God and the wisdom of God are with us, Christ is with us, who is also present in this cause. Have confidence: He has already conquered the world (2)." Meanwhile, let us follow with a steadfast spirit and certain faith the eternal truth which says: "Strive for justice for thy soul, and even unto death fight for justice, and God will overthrow thy enemies for thee (3)." Finally, we, from the depths of our hearts, implore the most excellent gifts of heavenly grace for you, Venerable Brothers, and for all the clergy and laity entrusted to your care, and as a pledge of our most heartfelt affection and of our intimate charity towards you and your beloved children, we impart the Apostolic Blessing upon you and them.

Given at Rome, near St. Peter's, on the fifteenth day of May in the year of Our Lord 1871, in the twenty-fifth year of Our Pontificate.

PIUS IX, POPE.

(1) St. Gregory VII, epistle 61.

(2) St. Bernard, epistle 126, n. 6 et 14.

(3) Sir 4:33.

[*Latin ed. p. 264*]

TO THE MOST EMINENT CARDINAL, VICAR OF THE CITY, THIS LETTER WAS GIVEN ON MARCH 2, 1871, AND IS COMMEMORATED IN THE LETTERS ENCYCLICALS RECENTLY PRESENTED.

Venerable Brother, Greetings and Apostolic Benediction.

DOCUMENT. "The Church of God, like a Queen adorned with garments studded with jewels, has always been decorated with the splendid ornament of various Religious Orders; thus, she has always made use of their activities to spread the glory of the name of God, to carry out matters concerning the faithful people, and to introduce or promote civilization

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in nations. Therefore, all those who have ever been enemies of the Church have fiercely persecuted the Religious Orders, and among these, they have especially attacked the Society of Jesus, because they considered it the most active and, therefore, the most harmful to their designs. We see this being repeated with sorrow in the present time, as the usurpers of Our State, always seeking a fatal prey for plunderers, seem to want to begin their attack on the Society of Jesus."

[*Latin ed. p. 265*]

LETTER OF THE HOLY FATHER, ETC. 265, concerning the suppression of all religious families. To facilitate this crime, they incite hatred against them among the people, accusing them of enmity towards the present Government, and especially of such influence and power with Us, that they oppress Us to such an extent that "we do nothing that is not suggested to us by them, and that they make us more hostile to the very Government." This foolish calumny, if it is directed at the utter contempt of Us, so that we are considered completely inept and incapable of making any decision, is manifestly absurd, since everyone knows that the Roman Pontiff, after having implored divine light and grace, acts and decides what he considers just and useful to the Church; and in more serious matters, he often makes use of the work of others, of whatever rank, condition, or Religious Order, because he believes that those who are more expert in the matter in question can offer a wiser and more prudent opinion. Frequently, indeed, we also make use of the Fathers of the Company [Jesuits], and we entrust them with various duties, especially those that concern the sacred ministry; and they, in carrying them out, show us more and more clearly that zeal and... [the sentence is incomplete in the original Latin].

[*Latin ed. p. 266*]

266 LETTER TO ETC. concerning the commitments, for which our predecessors merited frequent and most ample praises. But Our affection and most just esteem for the Society, which has always deserved so much good from the Church, from this Holy See, and from the Christian people, is far removed from that servile obedience which its enemies imagine; and we disdainfully reject the calumnies of these, both We and the humble devotion of the most excellent Fathers. We have deemed it fitting, Venerable Brother, to inform you of these things, so that the snares laid against the Society may be made clear, so that Our judgment, which has been shamefully and foolishly overturned, may be corrected, and so that a new pledge of Our particular affection may be given to the same illustrious Society.

Indeed, it would certainly be pleasing to Us, seizing this opportunity, to speak to you at greater length about the ever-increasing causes of Our sorrow; but since there are so many of them that they cannot be contained within the limits of a letter, we will touch only upon the matter of the

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concessions, which are commonly called guarantees, in which one would scarcely know whether absurdity, or cunning, or mockery, holds the place of honor, and concerning which the Subalpine Government has already…

[*Latin ed. p. 267*]

267. For a long time, the rectors of the Subalpine Government have been expending a laborious and fruitless effort. For, from the common protests of the Catholics, and from political necessity, compelled to maintain some semblance of Our sovereign power, so that we should not be considered subject to anyone in the exercise of the supreme government of the Church, they have believed that they could achieve this goal through concessions. But since a concession, by its very nature, requires a certain power in the one granting it over that to which it is granted, and subjects that which is granted, at least with regard to the thing conceded, to the power and will of the grantor, it necessarily follows that these individuals are wasting their efforts in strengthening Our authority with means that undermine and destroy it. Furthermore, the intrinsic nature of concessions is such that each one carries with it a particular servitude, which is made even more burdensome by subsequent amendments. And finally, the deceitful and hostile spirit that, although insidiously veiled, emerges from them, is so illuminated by the continuous series of events that it imprints upon them an evident character of mockery. But if the Church must in itself express the image of its divine Author, should we not...

[*Latin ed. p. 268*]

268 LETTER OF THE HOLY FATHER, ETC. We, although unworthy, who on earth represent Jesus Christ, give thanks to Him, because He allows us still to be surrounded by the derisive emblems of royalty? He certainly conquered the world in this way; and likewise, through His Bride, the Church, He will again triumph over it. Meanwhile, Venerable Brother, we implore an abundance of heavenly graces for you; and as a pledge of our particular benevolence, we lovingly impart to you the Apostolic Blessing. Given at Rome, near St. Peter's, on the second day of March in the year 1871, the twenty-fifth year of Our Pontificate. PIUS IX.

Rentes, Iesu Christi in terris vices gerimus, gratias Ipsi rependere, quod Nos quoque sinat iniuriosis imperii insigniis circumdari? Ita sane mundum ipse vicit; atque ita pariter per sponsam suam Ecclesiam de illo iterum referet triumphum. Tibi interim, Venerabilis Frater, caelestium gratiarum copiam adprecamur; quarum quidem arrham, ac peculiare benevolentiae Nostrae pignus Apostolicam tibi Benedictionem peramanter impertimur. Batum Romae apud S. Petrum die secunda Martii MDCCCLXXL Pontificatus Nostri anno XXV. PIUS PP. IX.

[*Latin ed. p. 269*]

269 A LETTER ENCYCLICAL Concerning the most blessed event, which

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after the Most Blessed Peter, Prince of the Apostles, no successor has seen, and which we hold with the greatest certainty to be a foretaste of the imminent triumph of the Church, which God will accomplish, who has deigned to raise up so many and such prayers and works of piety throughout the Catholic world, beyond human memory, for the exaltation of the Roman Pontiff and of the entire Church. POPE PIUS IX. To the Venerable Brothers, Greetings and Apostolic Benediction. "The benefits of God call us to celebrate His goodness, as He shows us a new grace of His protection and the glory of His Majesty. For it is now the fifth and twentieth year since, by the grace of God, we undertook the ministry of this Our Apostleship, the trials of which times are so well known to you that they do not require a longer recollection. Truly, Venerable Brothers, it is evident that the Church, engaged in a constant struggle, maintains its course amidst frequent conflicts and victories; truly, God governs and directs all things in the world, who is the footstool of His feet; truly, He often uses weak and contemptible instruments, so that He may accomplish the plans of His wisdom." Jesus Christ, Our Lord, the author and supreme governor of the Church, which He acquired with His blood, with the help of the merits of the Most Blessed Peter, Prince of the Apostles, who always lives and presides in this Roman See, during this long period of Our Apostolic service, has deigned, by His grace and power, to govern and sustain our weakness and frailty, for the greater glory of His name and the benefit of His people. Hence, strengthened by His divine help, and constantly guided by the counsel of the Venerable Brothers, Our Cardinals of the Holy Roman Church, and not once by you yourselves, Venerable Brothers, who were present here in Rome with great frequency, we present this chair of truth to your virtue and unity.

[*Latin ed. p. 270*]

270 THROUGH THIS ENCYCLICAL LETTER, adorned with the utmost splendor of piety, we have been able, during the course of this pontificate, to declare, through a dogmatic definition, the Immaculate Conception of the Virgin Mother of God, and to bestow heavenly honors upon many heroes of our religion; and we do not doubt that the protection of the Divine Mother will be available to the Catholic Church, especially in these times so adverse to her. With the same divine help, and for the same glory, we have been able to spread the light of true faith into regions that are disturbed and hostile, by sending missionaries there; in many places, we have established the order of the ecclesiastical hierarchy; and we have solemnly condemned errors that are harmful to human reason, to good morals, and to both the Christian and civil order, especially in this age. With the help of God, we have, as much as we could, striven to associate the ecclesiastical and civil powers, both in Europe and in America, in a firm and solid bond of concord; and we have taken care to attend to the needs of the Eastern

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Churches, which we have always regarded with paternal affection from the beginning of our apostolic ministry; and not long ago, it was given to us to undertake and promote the work of the Oecumenical Council of Vatican, of which, although the greatest fruits were partly realized and partly awaited by the Church, we were forced to decree a suspension, due to well-known circumstances. And indeed, Venerable Brothers, we have never neglected to fulfill, with God's help, those duties and obligations that are required by the law and office of our civil government. As you remember, the congratulations and applause that greeted the beginning of our pontificate were soon turned into insults and attacks, to the point that we were forced to leave this beloved city of ours. But when, with the efforts and strength of the Catholic peoples and princes, we were restored to this pontifical see, we immediately devoted all our strength and efforts to promoting and securing that solid and lasting prosperity for our faithful subjects, which we have always recognized as a most important duty of our civil government. But the greed of neighboring powers has invaded our territories, they have stubbornly preferred the schemes of sects to our paternal and repeated admonitions and warnings, and most recently, as you know, they have surpassed even the impudence of that prodigal son, of whom we read in the Gospel, and have, with violence and arms, conquered even this city of ours, which they demanded.

[*Latin ed. p. 271*]

ANOTHER ENCYCLICAL LETTER. 271 years, and she now retains it in her power against all wickedness, as if it were a substance that touches her very being. It cannot be, Venerable Brothers, that we are not deeply moved by this most nefarious usurpation which we are suffering. We are utterly dismayed by the injustice of the plan which aims to, so to speak, with the destruction of our civil authority, also destroy, in one and the same action, our spiritual power and the Kingdom of Christ on earth. We are dismayed by the sight of so many grave evils, especially those in which the eternal salvation of our people is placed in danger; and in this distress, nothing is more grievous to us than to be hindered by the condition of our oppressed liberty from applying the necessary remedies to these evils. To these causes of our sorrow, Venerable Brothers, is added that long and lamentable series of calamities and misfortunes which have so long afflicted and tormented the most noble French nation; which, these days, has been increased to an immense degree by the utterly unheard-of excesses committed by a wicked and lost mob, and by the atrocious crime of parricide, namely, the murder of the Venerable Brother, the Archbishop of Paris, which, as you well know, should have moved us deeply, since it has filled the entire world with fear and horror. Finally, Venerable Brothers, there is another, and to us even greater, bitterness, when we see so many rebellious sons, so bound by the chains of censure, paying no heed to the voice of our fatherhood,

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nor to the means of their own salvation, continuing to despise the time of repentance offered by God, and stubbornly provoking the divine wrath, which they might, with greater benefit, experience in the fruit of mercy. Indeed, through all these vicissitudes, with God most mercifully protecting us, we see that day approaching which we have long awaited, on which, just as we succeeded to the See of Blessed Peter, so too, by his merits, we find ourselves, as far as possible, to be sharers in the long years of his service in the apostolate. This, indeed, is a singular and immense gift of divine grace, bestowed upon us alone, by the will of God, in the long course of twenty-nine centuries, following in the footsteps of our most holy predecessors. In this, we also recognize the divine goodness with us, when we see that we are deemed worthy at this time to suffer persecution for justice, and when we observe that wonderful affection of devotion and love with which...

[*Latin ed. p. 272*]

272 A SECOND ENCYCLICAL LETTER. The Christian people are greatly moved everywhere on earth, and are drawn with unanimous zeal to this Holy See. Indeed, since such great favors have been conferred upon Us, We find Our forces quite inadequate to respond to the office of giving thanks in a manner worthy of the debt. Therefore, while We implore the Immaculate Virgin Mother to teach Us to render glory to the Most High with the same spirit as Herself, with those sublime words, "Because he that is mighty hath done great things to me," We also earnestly beseech you, Venerable Brothers, to join with the flocks entrusted to you in offering hymns of praise and thanksgiving to God with Us. "Magnify the Lord with me," we say with the voices of the Great Leo, "and let us exalt His name together, that the whole measure of the graces and mercies which We have received may be referred to the praise of His Author." To your people, communicate Our fervent charity and the most grateful sentiments, on account of the outstanding testimonies of filial piety and the services so long and so perseveringly rendered by them to Us. For We, as far as We are concerned, can rightfully use the words of the Royal Prophet, "My days are prolonged," but with the help of your prayers, We already need to acquire the strength and confidence to render our souls to the Shepherd Prince, in whose bosom is the refreshment from the turmoil of this life and the blessed port of eternal tranquility and peace. In order that what has been added to Our Pontificate through the benefits of His grace may redound to the greater glory of God, We, on this occasion, unlock a treasure of spiritual graces, and We grant you, Venerable Brothers, the power to administer, in each of your Dioceses, on the sixteenth or twenty-first day of this month, or on another day of your choosing, the Apostolic Benediction, together with the plenary indulgence, according to the usual form of the Church, by Our authority. And desiring to promote the spiritual benefit of the faithful, We grant, by these presents, in the Lord, that all Christians, both secular and

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regular, of either sex, wherever they may be in your Dioceses, who, having made their sacramental confession and having been strengthened by the Holy Communion, shall offer devout prayers to God for the concord of Christian rulers, the eradication of heresies, and the exaltation of the Holy Mother Church, on that day which you, by Our authority, shall designate for granting the aforementioned Benediction, or

[*Latin ed. p. 273*]

AN ENCYCLICAL LETTER. 273. In dioceses where the Cathedral See is vacant, it is Our will that the Vicars Capitulars, existing for the time being, may, by their actions, grant to all who seek it, a plenary indulgence for all their sins, and that they may be able to do so. We do not doubt that, on this occasion, the Christian people will be more effectively encouraged to pray, and that, through their multiplied prayers, we may deserve to receive that mercy which the sight of so many present evils prevents Us from earnestly imploring. "Meanwhile, Venerable Brothers, we implore from Almighty God constancy, heavenly hope, and every comfort, and we desire that Our Apostolic Blessing, which We impart to you with the fullness of Our heart, to you, to the clergy, and to the people of each of your dioceses, may be a witness to Our favor and to Our most special benevolence." Given at Rome, at St. Peter's, on the fourth day of June, in the year of Our Lord 1871, in the twenty-fifth year of Our Pontificate.

CONCERNING THE ARMENIAN SCHISM. To the Most Reverend Anthony Peter IX, Patriarch of Zülz, and to the Catholic Archbishops and Bishops of the Armenian Rite, who maintain communion with the Apostolic See, and also to our beloved sons, the priests, monks, and lay Catholics of the same rite.

PIUS PAPA IX. To Venerable Brothers and beloved Sons, Greetings and Apostolic Blessing.

"When the first signs of a new schism, recently arisen among the Armenians of the City of Constantinople, appeared, We did not fail, for the sake of the universal solicitude of all the Churches, to warn everyone, either through Our letters or through Our Delegate residing there, to remain firm and steadfast in the faith; but those who..." (*) See the documents which I have presented in Volume V, pages 444, 300 and following, and page 572. "Acts, Volume VI, section LXVI, paragraph 4."

[*Latin ed. p. 274*]

274 APOSTOLIC LETTERS. We exhorted them in the Lord to return to sounder counsels, lest they should stray from the right path. But these, turning a deaf ear to Our words, persisted in their obstinacy; indeed, the divine and universal power and authority of the Apostolic See, especially in matters pertaining to discipline, was again asserted before them, although the reverence and faith of all times and of the children of the Church

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have always been celebrated, both in the Western and Eastern regions, and most recently declared by the dogmatic decree of the Ecumenical Council of Vatican, and reaffirmed. Hence, We deemed it necessary to order that, in order to maintain the unity of the faith according to Our Apostolic office, they should subscribe, in clear and definite terms, to a formula or declaration of faith, according to the custom received in the Church; and that if they refused to subscribe, they would thereby prove themselves guilty of ecclesiastical perfidy and be separated from the unity of the Catholic Church. Since they neglected this, the Most Reverend Father Anthony Joseph, Archbishop of Tianen, Our Apostolic Delegate to Constantinople, obeying Our commands and using Our authority, solemnly pronounced a decree against those guilty of schism, and therefore subjected them to the bond of a greater excommunication. After this judgment, there remained no room for further hesitation, and these new schismatics were faced with a choice: either to return to the fold or to renounce entirely the name of Catholics. But with great sorrow, it came to pass that these obstinate individuals would proceed in this manner, although there were not lacking clear indications. For a council was held, in which laymen, monks, and priests of the schismatic faction deliberated concerning the appointment of a new patriarch; and indeed, four bishops were consecrated with the titles of the Churches of: James Bahatiarian of Diarbekir, Basil Gasparian of Cyprus, Ignatius Kalybgian of Amasya, and Placid Kasangian of Antioch, forgetting, indeed, their dignity, and the faith and obedience which they had sworn to Us and to Our Successors in their very consecration. Then, they accomplished what they had proposed, namely, they elected as a pseudo-patriarch James Bahatiarian, the Archbishop of Diarbekir, to whom the name James Peter IX was given; and the legitimate Patriarch of Cilicia, the Most Reverend Father Anthony Peter IX, was rejected, although he had been elected by the unanimous vote of the bishops three years before.

[*Latin ed. p. 275*]

APOSTOLIC LETTERS. 275 If he had been elected, he would have been confirmed by Us and adorned with the sacred Pallium by Our own hands." How much grief and sorrow this has caused Our heart, We cannot express in words. For by this deed, a most grievous wound has been inflicted upon the unity of the Catholic Church, the rule of ecclesiastical discipline has been trampled upon, the force and authority of the sacred canons and the Apostolic constitutions have been entirely disregarded and despised, a most terrible schism has been strengthened; and to the unwary or ignorant faithful, an opportunity for error has been presented by those who, although excommunicated by Our authority and entirely separated from the unity of the Catholic Church, dare to call themselves Catholics and obedient to Us, and to present to the people an illegitimate and schismatic

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pastor, as if he were a Catholic. "Since these things are so, We would seem to be failing in Our duty if We delayed in raising Our voice, as constituted by Our Lord Jesus Christ as guardian of the entire Church, against these men who have dared to defy Us, and to rescue the Armenian faithful from all danger of error. Therefore, by Our Apostolic authority, We decree and declare the aforementioned assembly of factionalists, and the election held therein of Iacobus Bahatiarian as patriarch, to be illegitimate, schismatic, and entirely null; and that he possesses no ecclesiastical or spiritual jurisdiction whatsoever, and is suspended from all exercise of the episcopal office; moreover, We declare that both the aforementioned Iacobus and the electors have incurred the penalties prescribed by the sacred canons against those who have dared to do such things. Furthermore, We strictly command the aforementioned Iacobus, under pain of divine judgment, that he dare not, in any way, usurp the title of patriarch, which has been presumptuously and without any right conferred upon him by the Schismatics, nor presume to attempt anything under that name. Moreover, whatever actions have been taken against the Venerable Father Antonium Petrum IX Hassun in the aforementioned assembly, are likewise of no consequence or validity, and We declare them to be a schismatic act; and We declare and confirm the Venerable Father Antonium Petrum to be the true, only, and legitimate Patriarch of the Armenians of Cilicia. "Furthermore, We gravely warn all Armenian Catholics, of whatever order and dignity, in the exercise of Our supreme Apostolic office, to beware of the aforementioned Iacobus, as well as of his electors and of all others who adhere to this new schism.

[*Latin ed. p. 276*]

276 APOSTOLIC LETTERS. diligently; but let them remain faithful and obedient to their legitimate Patriarch, and especially to this Apostolic See, for, as the holy Bishop Cyprian of Carthage warned (1), heresies have arisen, and schisms have been born, only when obedience to the priests of God is lacking, and when one is considered a priest for a time, and at another time a judge in place of Christ. But the most Provident God, who is accustomed to mingle joy with sorrow, has offered solace and comfort to our grief in the faith and constancy with which the people and clergy of this patriarchate have shown themselves towards the legitimate Patriarch and this Apostolic See; and especially in you, Venerable Brothers, who, steadfastly remaining in your office, have striven and continue to strive to preserve unharmed those entrusted to your care from the aforementioned errors and deceptions. "Furthermore, we exhort those Neo-schismatics, and especially those Bishops who, with so much grief to Ourselves and to all good men, have departed from the Catholic unity, that since they have sinned, they not add to it. Let them see to what point they have arrived, and what storm they have stirred up in the Catholic Church of Armenia. This, however, as long as it stands firm on the foundation laid by Christ,

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cannot be submerged; but they, and all who adhere to them, will realize how grave it is to have departed from the true Church of Christ and to have been torn away from its unity. Although they may still wish to call themselves Catholics, it is necessary that their actions, and indeed the judgment of their own conscience, convince them of their error. For who, as the same St. Cyprian says (2), can claim to be in the Church, who resists the Church, who abandons the Chair of Peter, upon which the Church is founded? Let no one deceive the brotherhood with lies. Therefore, let those who have erred return to their senses, and let them know that in the Apostolic See there sits not only a Judge who has in view the punishment of all disobedience, but also a most loving Father, who is ready to receive into His arms those sons who humbly confess their fault and sincerely detest it." Let us therefore all pray to Jesus Christ, the Author and Finisher of our faith, and let us humbly invoke Him through the intercession of the most holy Virgin Mary, the Blessed Apostles, and that great Illuminator of Armenia, St. Gregory, that He may grant that those who err may be guided.

(1) St. Cyprian, Epistles to Cornelius, Pope.

(2) St. Cyprian, Book on the Unity of the Church.

[*Latin ed. p. 277*]

"That He may grant light and strength to their grace, that, setting aside all human considerations, they may hasten to return to the Church; and that He may grant to those who still remain, ever greater increases of grace." "And to you, Venerable Brothers and beloved Sons, whom we embrace with so much greater charity, as we perceive your virtue to be so firm, we impart from the depths of our heart the Apostolic blessing, and we earnestly wish you always greater help in all things." "Given in Rome, at St. Peter's, on the eleventh day of March, in the year of Our Lord 1871, in the twenty-fifth year of Our Pontificate."

APPENDIX VI. CONCERNING THE SIXTEENTH DAY OF JUNE, 1871, THE YEAR SACRED TO THE MOST HOLY HEART OF JESUS, WHICH THE ROMAN PONTIFF OBSERVED DURING THE YEARS OF PETER IN THE ROMAN PONTIFICATE.

It would be fitting not to pass over the sixteenth day of June, on which the Most Holy Father, during the years of Peter in the Roman Pontificate, observed the divine disposition of the Most Holy Heart of Jesus, which revived a new life, and that the entire Catholic world was moved with the same joy and the same spirit.

Indeed, the Roman people, during these years of Peter in the Roman Pontificate, continued to celebrate, with open joy, the religious acts, which, although they must be lived according to the authority of the priests who publicly proclaim them, cannot be prohibited: but with a certain modest

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joy, they carried out these religious acts in the depths of their hearts, and, as if reading from the front of the law, they said: "Let us rejoice and be glad in her all the days of our life." We have seen in Rome the temples, which we had seen a few months ago, filled to the utmost, at fixed hours, with people who were praying and praising God with that faith which the Apostle again praised. We also saw countless people arriving in Rome, who, despite the great inconveniences of the journey,

[*Latin ed. p. 278*]

APPENDIX VI. 278, with the greatest neglect and perils, Rome is situated; and no one will fail to see how aptly the words of the Savior, especially those spoken to the Apostle John, can be applied to the Roman Pontiff, who represents the entire Catholic world, whether it be his own city or diocese, or other nations; and many arguments, illustrious gifts, and fervent wishes have been presented to the Roman Pontiff.

After Christ, having appeared to His disciples and others in the Vatican buildings shortly after the Resurrection, and having commanded them to cast their net on the right side of the ship, and having given them bread and fish, thereby entrusting to Peter the office of feeding all His sheep, and of tending to all His flock with exquisite love, so that no one can rule over them except Him for whose sake they exist, He spoke these words: "Amen, amen, I say to you, when you were young, you girded yourself and walked whither you wished; but when you shall be old, you shall stretch forth your hands, and another shall gird you, and carry you whither you do not wish." This He said, signifying by what death He would be glorified by God.

Having said this, He says to him, "Follow Me." Peter, having turned, saw Jesus' disciple, the one whom Jesus loved, following them (who had reclined at the supper on His breast and had said, "Lord, who is the one who will betray You?"). Therefore, when Peter saw him, he said to Jesus, "Lord, what about this man?" Jesus said to him, "If I will that he remain until I come, what is it to you? You follow Me." This is said to Peter, John, and the other disciples, what is written in the last chapter of his Gospel.

Concerning the Angel of Vatican, whoever remembers the conversation that Christ had with Peter in the presence of the Angel, will understand that it is fitting.

The entire Catholic world is stirred by the living example of the Pontiff himself, to whom unity of faith and communion are intimately connected. In this, as it were, immense mass, which is moved by one faith, one prayer, one heart, we see the foundation of the most desired triumph of the Church, which we most earnestly await, against the satanic legions, by the Author and Guide of human society.

[*Latin ed. p. 279*]

ix vi. Your heart has long since proven itself, and you have given each

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one to your Mother, and you have given her to her as a mother, so that now you acknowledge them as your own and entrust them to you to be guided: therefore, I wish to know what will happen to John. And what about this one? Jesus saith to him: "So I will have him to remain till I come, what is it to thee? Follow thou me." This saying was then circulated among the brothers, because that disciple will not die, and Jesus did not say to him, "He will not die," but "So I will have him to remain till I come, what is it to thee?" In this final conversation that John recounts, we see certain things that can be most firmly applied to the Most Holy Father. For he, truly representing the person of Peter, and therefore fulfilling his office of guiding and protecting the flock of Christ, says in his presence, "Another will gird you"; but referring to the person of John, fulfilling his and office, he solemnly affirms that the Mother of Jesus is free from all stain from the beginning, and he will not say: "And he will lead you where you do not want to go"; but rather, he will experience what was said to John: "So I will have him to remain till I come," which he has begun to experience. We all nurture the firmest hope of seeing Him overcome all the forces that Satan has stirred up within the Church against it. For the arguments of this hope are followed by arguments that, if a profane man, considering public affairs, divine providence excluded, were to underestimate, a faithful man will not do so, but will see, through the light of faith, all things arranged, permitted, and subordinated to the order of divine providence, which governs and directs all things for its own glory and the exaltation of the Church: "Fear not, little flock, for it hath pleased your Father to give you a kingdom." "The gates of hell shall not prevail." "I have overcome the world." Two final things that I remember, and which we see with our own eyes, are new arguments of this hope: first, the universal fervor of prayer has been aroused for all good things, according to the example that we read in the Acts of the Apostles: "Peter therefore was kept in prison. But prayer was made without ceasing by the church unto God for him." This fervor of prayer, this faith that has been aroused, cannot be attributed to any human cause, but only to Him who, granting what is asked of Him, fulfills what is pleasing to Him. "We see," (as the Most Holy Father writes in his previous encyclical, page 258) "the firmness of faith, the fervor of charity expanding day by day, we see the solicitude in the hearts of Christ's faithful for the labors of this See and of the Supreme Pastor, which only God could inspire." The second thing is that we see that such prayers and supplications of the Church are already being heard in the person of the Most Holy Father himself, whose life, beyond the usual order of providence hitherto shown in the successors of Peter, continues unharmed: this life, while signifying to us that the prayers of the Church are being heard, also seems to give us,

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as a pledge, what has been given to the Church that prays.

[*Latin ed. p. 280*]

280 APPENDIX VI. The confirmation of the hope which the Church, most vehemently known to us as the Catholic Church, imparts, whose outcome is secured by prayers, against the vexations of the powerful, and as you thought, not to be overthrown, but rather to revive; by persecutions, whether open or hidden, not to be suppressed, but to rise more vigorously, and to be given that strength and that power to which no one can resist. The Roman Pontiff, for years equal to those of Peter. But if, indeed, patience does not conquer, the divine power intervenes, crushing with greater splendor. And to the matter, Hilary signifies the ultimate: "This is the promise of God to you, what the Catholic Church's Pontiff is, who, if he diligently acts (as you constantly strive), will vehemently move the entire Catholic world against you: through such universal commotion, which, by exasperating you, compels you to give hypocritical warnings, so that, by some tergiversation, you might be freed, and you would see that last warning and that most open one for your conversion: so that, as a jester, you might be led to the end of the age." FROM THE SECRETARY'S BRIEF. APOSTOLIC LETTERS CONCERNING THE APPROVAL OF THE BREVIARY AND MISSAL OF THE CISTERCIAN ORDER, THE CAUSE OF WHICH WE EXPLAINED EARLIER IN VOLUME IV, PAGE 465. PIUS P. IX. For the perpetual memory of the matter. "Those things which have been devised and instituted by the most holy and wisest men, and sanctioned by the authority of the ages, the Roman Pontiffs..."

[*Latin ed. p. 281*]

APOSTOLIC LETTERS. Have always been held in high esteem, and have been considered inviolably to be observed at all times. With this in mind, the Blessed and Holy Pope Pius V, Our Predecessor, at the time when he prescribed the use of the Roman Missal and Breviary for all Churches and Religious Orders, made an exception for those Churches and Monasteries which had been using their own Missal and Breviary for two hundred years. Therefore, justly and deservedly, the renowned Cistercian Family, which has earned great merit in matters sacred and public, and which, not at all deviating from the rule of the lawgiver Saint Benedict, but entirely conforming to that rule, established its own rite, retained its liturgical books, as that Religious Family had been using them for four hundred years and more. And the same Holy Pope, in the reformation of the aforementioned Order, decreed through his Apostolic Letters that in the entire Cistercian Order, the Sacrifice of the Mass, and all other daily and nightly Divine services, should be celebrated daily in the choir, according to the rite of that Order, without interruption. However, around the middle of the seventeenth century, it seemed advisable to Claudius Vaussin, then the highest

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Master, or General Abbot, of the Cistercian Order, to reform some things in the matters of the rite (without, however, touching the substance thereof). Therefore, the same Claudius, imitating the examples of the Generals of other Orders, did not hesitate to make some changes or improvements in the Breviary and Missal of his Order, carefully taking care that such books, while always preserving the type of the rule of Saint Benedict, might more closely approach the form of Saint Pius V, as far as possible. Almost all Congregations and Provinces of the Cistercian Monks of both sexes, of both the Common and the Stricter Observance, hearing of this from their Prefect, received and accepted the Missal and Breviary thus amended, and have continued to use them to this day. But since some Monks of that Order residing in Rome raised a question about the legitimacy of this reform, the Sacred Congregation for the Preservation of the Rites decreed that the Monastic Breviary approved by the Most Holy Pope Paul V for all those living under the rule of Saint Benedict, should be observed by the entire Cistercian Order. Furthermore, in order that this reform might be held more sacred by his Monks, the aforementioned Claudius, on the occasion of the new reformation of his Order, obtained the approval of the aforementioned amendment of the liturgical books of that Order from the Blessed and Holy Pope Alexander VII, Our Predecessor, and the same amendment was approved by the rec. mem. Cle-

[*Latin ed. p. 282*]

282 APOSTOLIC LETTERS. The ninth month, and the Roman Pontiffs Clement XIII repeatedly approved and confirmed [them]. However, a controversy arose again concerning the legitimacy of this reform among the students of the same Order in the monastery of Boherne in Belgium, and it was brought before the Holy Apostolic See. The Council for Affairs and Consultations of Bishops and Regular Canons, to which this matter was presented, referred the entire controversy to the Congregation of the Church for the preservation of rites. The Cardinals of the Holy Roman Church, who preside over this Congregation, as the gravity of the matter demanded, after carefully examining the reasons and all other aspects, appointed three consultants, one of whom was chosen from the ranks of the Congregation of Bishops and Regular Canons, to give their written opinions on this matter, and these opinions were to be published and distributed to each member of the same Congregation. After considering these opinions, two matters were presented to the entire Congregation for deliberation. Namely: I. Whether the use of the proper Breviary and Missal of the Cistercian Order, both of the Common and the Stricter Observances, is legitimate. These were reformed by Abbot Claude Vaussin, the General Abbot, around the middle of the 17th century. II. And, assuming an affirmative answer to the first question, what should be determined regarding the numerous feasts and more recent offices of the

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Universal Church, which are either entirely lacking or noted with a lesser observance in the aforementioned books? These doubts were presented to the Venerable Fathers, the Cardinals of the Holy Roman Church, for examination and approval in a meeting held on December 5th, 1868, in the Vatican buildings. After hearing the report on this case from our beloved son, Cardinal Hannibal Capalti of the Holy Roman Church, and after a thorough and diligent examination of all matters, they responded: "Regarding the first question: Affirmative. Regarding the second question: It is to be postponed for examination by the Eminent Cardinal Prefect and the Promoter of the Faith, along with one of the consultants, in order to present a report to the Sacred Congregation." After the aforementioned examination was completed, the same Cardinal Capalti spoke about all these matters at the ordinary meetings of the same Congregation held in the Vatican. On the same day, July in the year 1869, the Cardinals who safeguard the Sacred Rites wrote: "It is to be approved that the Calendar be followed according to the additions and corrections proposed by the Cardinal Prefect, and we implore that the Decree of the Congregation of Sacred Rites be deigned to be confirmed by Apostolic Letters."

[*Latin ed. p. 283*]

APOSTOLIC LETTERS 283. We, to whom the beloved Son, Dominic Bartolini, Archbishop Urban, having explained with meticulous accuracy, for the aforementioned Congregation, the cause of such matters, after mature consideration of all things, which the aforementioned Congregation decreed concerning this controversy, we approve, and by the tenor of these present Letters, we strengthen, sanction, and confirm those decrees with our Apostolic authority. Therefore, to all and each within the Religious Family of Cîteaux, both of the common and stricter observance, we command and order that these decrees be observed, obeyed, and followed at all times, notwithstanding any special and individual exceptions that might otherwise apply. Given at Rome, near St. Peter, under the Fisherman's Ring, on the 9th day of February, 1871, in the twenty-fifth year of Our Pontificate.

[Seal] A. Card. PARACCIANI CLARELLI.

EX S. B. U.

INQUISITIO!

CONCERNING the Apostolic See, WHEREIN THE LIMITS OF CENSURE ARE DEFINED, AND THE DOUBT AND DECREE REGARDING SECULAR AND REGULAR CONFESSORS, WHO PROVIDE SPIRITUAL AID TO THE SICK IN THE HOSPITALS OF ROME.

SUPPLICATING PRAYERS:

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"Having been presented with the doubt by some Priests, whether the faculties and privileges granted by the Supreme Pontiffs to secular and regular confessors who minister to the spiritual care of the sick in the hospitals of Rome have been taken away by the Apostolic Constitution of Your Holiness of October 12, 1869; the Priests of the Pious Union of St. Paul the Apostle, who, among other pious works, also dedicate themselves to the aforementioned most holy office of charity, humbly request a declaration on this matter."

[*Latin ed. p. 284*]

284 DECREE: On the fourth day of March, in the year 1870. "The Most Holy Lord, Pope Pius IX, by Divine Providence, having granted a customary audience to the Most Reverend Father, Assistant of the Holy Office, and having heard the report concerning the aforementioned petition, and with the votes of the Most Reverend Cardinals, General Inquisitors of Rome and Emesa, graciously granted the following: That secular and regular priests, who provide spiritual care by hearing confessions in hospitals for the sick, and who are listed under numbers I and II, § 1, in the book or catalog published by the press in the year 1856, by the authority and order of the Most Reverend Cardinal, Vicar of Rome, enjoy all the faculties and privileges noted therein, notwithstanding any contrary provisions." / Pelami, Notary of the Holy Roman Church. The book mentioned in the decree, which was published in the year 1856, by order of the Most Reverend Cardinal, Vicar of Rome, contains the following text, and we refer to it especially for this reason, so that the Ordinaries of the places may, if they wish, request from the Holy See the extension of these faculties for the hospitals within their respective dioceses.

FACULTIES AND PRIVILEGES GRANTED TO SECULAR AND REGULAR PRIESTS WHO PROVIDE SPIRITUAL CARE FOR THE SICK IN THE HOSPITALS OF ROME.

I. Confessors authorized to hear confessions in the hospitals of Rome.

1. All secular and regular priests approved for hearing confessions by the Ordinary of Rome, may hear confessions in any hospital in the city (1).

(1) It is stated: "The Confession Sheet, in which are recorded the sacramental confessions of the Christian faithful... in all the hospitals of the beloved city, according to the Holy Brief."

[*Latin ed. p. 285*]

FACULTIES AND PRIVILEGES, ETC. 285, 2.° Regarding the Regular clergy, even those approved only in other dioceses, may confess the sick in those hospitals to whom they are sent by their superiors, according to the prescriptions made to them by the Supreme Pontiffs (1). II. Faculty concerning absolution from censures and sins. The faculty concerning absolution from censures (in foro tantum conscientiae) and from sins, which

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the Holy Church grants to any priest for the faithful who are in articulo mortis, that is, without any reservation. And therefore, all priests can absolve any penitents from whatever sins and censures; this very extensive faculty is also granted by the Supreme Pontiffs to confessors approved in the aforementioned manner, for the benefit of the sick in the hospitals of Rome alone, although they are not in articulo mortis (2). Regarding the two cases reserved to the Vicar of Rome, namely the buying and selling of Easter tickets, and the failure to observe the Paschal precept, in addition to the faculty of absolving them in the internal forum, the faculty is also granted to absolve externally from interdict those who have incurred it for failing to observe said precept, and whose name has been published at the door of the Church, with the obligation for the confessor that, having made the penitent aware of this, he immediately transmits the news by means of an authentic declaration to the secretariat of the Vicariate, using the following formula: Clementis XII, let it be heard on this day, April 28, 4738, etc., that you may be absolved. (1) Edict of the Most Reverend Cardinal Guadagni, September 6, 1788, renewed by the Most Reverend Cardinal Patrizi on July 22, 1830. (2) The aforementioned brief of the Most Holy Pope Clement XII, by which he approves that of Pope Paul III, "with all and singular faculties of absolving from all and singular sins, crimes, excesses, and offenses, however grave and enormous, even those reserved to the Apostolic See, etc., even if such were the case, for which the Apostolic See would deserve to be consulted." And concerning the censures, he adds: "from any excommunication, suspension, and interdict, and other ecclesiastical sentences, censures, and penalties, however imposed, and other cases reserved in the forum of conscience alone, we grant and concede."

[*Latin ed. p. 286*]

286 FACULTIES AND PRIVILEGES, ETC. I, the undersigned, declare that I have absolved the aforementioned N. N. of the parish of N., who was publicly denounced and interdicted for failing to fulfill the Paschal precept. In faith, etc. From the venerable archpriest N., on the day, etc. (1). III. Other Faculties and Privileges: 1.° The power to commute any simple vow in other works of piety, except those of chastity, of religious life, and the three pilgrimages to the Holy Land, to the tombs of the Holy Apostles, and to Saint James in Compostela. 2.° The power to relax any promissory oath, provided that no harm is done to a third party. 3.° The power to administer the ecclesiastical sacraments to the sick themselves. This refers, in addition to the administration of the Sacrament of Penance, also to the Sacrament of the Eucharist, both in the common form and in the form of Viaticum, and the Sacrament of Extreme Unction. Of this faculty, it is fitting not to make use when it might displease the priest, who, by his special office, is obligated to administer these sacraments. 4.° In articulo mortis, the power to impart the full indulgence and remission of all sins; and this

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not only to the dying in the hospital, but also to those of the family, using the prescribed formula (2). 5.° In suffrage for the souls of the deceased in the hospitals, the altar of the Holy Cross in the cemetery of Saint Spirit, and any other altar existing in the halls and chapels of the hospitals dependent on the Commission, are privileged (3). * (1) Decree of the Most Reverend Cardinal Patrizi, Cardinal Patrizi, from the Audience of His Holiness, on January 5, 1856. The faculty to grant absolution in articulo mortis also to the dying of the families of the hospitals, is granted by the same Pope Pius IX. (2) The faculties concerning vows, oaths, the administration of sacraments, and the blessing in articulo mortis are derived from the aforementioned Brief of Clement XII, declared and confirmed by the Supreme Pontiff Pius IX. (3) Rescript of the Supreme Pontiff Pius IX, March 1851.

[*Latin ed. p. 287*]

287 FACULTIES AND PRIVILEGES, ETC. IV. Places where the aforementioned Faculties may be exercised. In all the archhospitals and hospitals of Rome, that is, those which are public and general for all classes of people, such as those presently noted; as well as in those that may be opened in the future, even if they are branch offices and temporary, and in the places attached to them (1). The aforementioned hospitals are precisely those that are now under the jurisdiction of the Commission, namely: 1.° The archhospital of S. Spirito, and the attached orphanage (that is, the institution for exposed children), and the institution for female illegitimate children attached to the aforementioned archhospital, with its infirmary. 2.° The archhospital of the SS. Salvatore at S. Giovanni in Laterano. 3.° The archhospital of S. Giacomo in Augusta. 4.° The archhospital of S. Maria della Consolazione. 5.° The archhospital of S. Gallicano. 6.° The hospital of S. Maria de'pazzi. 7.° The hospice of S. Rocco (2). 0 WARNINGS I. Confessors approved only for men cannot confess women who are infirm in the hospitals. II. Confessors belonging to the Pious Union of S. Paul the Apostle may obtain from the primary administrator of the same other special faculties to be used in the hospitals to which they are assigned, and in other places and works of the aforementioned Pious Union. III. Priests who hear the confessions of the infirm in the hospitals are not obligated (as they are under penalty of suspension with regard to the infirm in private homes) to issue a written certificate. However, it will be fitting, after hearing the confession of an infirm person who confesses there for the first time, to inform those who are in charge of the hospital. (1) Quoted from the Brief of Pope Clement XI. (2) Motu Proprio of Pope Pius IX concerning the Commission of Hospitals, September 18, 1850, TU. I. of Rome.

[*Latin ed. p. 288*]

288 FACULTIES AND PRIVILEGES, ETC. IV. I. Confessors, who go to administer the Sacrament of Penance to the sick in hospitals, may also there

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administer the Sacrament to healthy individuals, both of the hospital staff (except for monastic women who are part of the hospital staff, for whom special approval is required), and to other individuals who are not part of the hospital staff. However, for healthy individuals, Confessors may only exercise their ordinary faculties, and those faculties which they have personally obtained for other places as well. V. Secular and regular clergy, who dedicate themselves to the spiritual well-being of the sick in the hospitals of Rome, by preaching, catechizing, administering the Sacraments, etc., earn an indulgence of two hundred days for each occasion, and a plenary indulgence once a year if they do so at least twelve times (1).

ERRATA CORRIGE: In fascicle LXIV, page 202 of this volume, in the section to be amended in the letter of the Eminent Cardinal Patrizi to the sacred prelates in Belgium concerning questions that have long been settled, which concerns the inherent power of human reason, we have added some historical remarks, among which we wrote: "Since some professors in Louvain maintained this, the matter was again brought before the Holy See; and in this regard, we stated as if it were thoroughly investigated that some professors in Louvain..." However, in the very same letter, it is written in the opposite sense: "It was reported to the Most Holy Pope Pius IX that some doctors in Louvain..." Therefore, in order not to appear to say more than what an authentic document signifies concerning that famous Catholic University, we deemed it appropriate to add this note. (1) Decree of the Eminent Cardinal Patrizi, from an audience on January 5, 1836 (which is preserved in the archives of the Pia Union of St. Paul the Apostle, together with the other decree mentioned above).

[*Latin ed. p. 289*]

289 TO THE HOLY CONGREGATION OF RITES. CONCERNING THE GRANTING OF THE TITLE OF DOCTOR AND THE EXTENSION OF SAID TITLE TO THE ENTIRE CHURCH, AS WELL AS THE OFFICE AND THE MASS CELEBRATED ACCORDING TO THE RITE OF THE DOUBLE, IN HONOR OF SAINT ALPHONSUS MARY DE LIGORI, FOUNDER OF THE CONGREGATION OF THE MOST HOLY REDEEMER AND FORMERLY BISHOP OF SAINT AGATHA OF THE GOTHIC PEOPLE. We are dealing with a matter of the greatest importance, in which so many documents have been presented to the Holy Congregation, demonstrating almost universal support from the Bishops for declaring Saint Alphonsus a Doctor of the Church, so that you may judge the case as settled from the very beginning. For when a matter is judged uniformly by the universal suffrage of Bishops, without excluding the Apostolic See, it is already the judgment of the Church, to which is added, as a crown, the formal Apostolic confirmation, which solemnly ratifies the matter itself by its authority. Indeed, many discussions took place within the Holy Congregation of Rites, as is customary, first through observations from the Promoter of

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the Faith against the petition, then through the responses of the Advocate, to which were added the votes of two Consultors, requested by the Holy Congregation: however, these matters pertain more to the clarification of the issue than to the foundation of the case. The most excellent foundation of the case is the almost universal suffrage of the Bishops, in which learned men may inquire into the causes of this suffrage, and they would easily find them, not in one or another work of Saint Alphonsus; not in one or another of his opinions, nor in some debatable questions: but in his entire practical teaching, by which he valiantly combated and eradicated the most pernicious fruits of the Jansenistic doctrine, which were spread more or less everywhere; especially in his moral doctrine, which, becoming universal, has already, in our age, refuted the errors of Jansenius.

[*Latin ed. p. 290*]

29. OF THE CITY AND THE WORLD. It had almost entirely extinguished. Which, indeed, will be evident from what follows. Therefore, I will present the structure of the case through its main points, adding to it the decrees of the Holy Congregation and the Apostolic letters. The Advocate for the cause, presenting the established doctrine: "Three things are necessary to preserve the Doctor of the Church: outstanding doctrine, remarkable sanctity of life, according to the words of Augustine in Psalm 71: "In the Church, mountains of outstanding sanctity are those who are fit to teach others." And furthermore, the Declaration of the Supreme Pontiff, or of a legitimately convened General Council (Benedict XIV, I. 4, p. 2, c. 11, §. 13), discussing the eminence of doctrine, divided his reasoning into two parts: first, he spoke of internal arguments, and, speaking in general terms, he opened the way to speak of the specific works of St. Alphonsus by mentioning the works of the same in general; afterwards, he spoke of external arguments. Regarding the internal arguments, speaking in general terms, he recalled various decrees issued in the cause of canonization; that is, the one under Pius VIII, in which it is written that he worked diligently to instruct the Christian people in the word and in writing, Decree, XVII Kal. Iunii 1830. And in the Decree of III Non. Decembr. 1829, from his youthful years until his extreme old age... he devoted himself... to writing books full of wholesome insights, to kindle in the hearts of the faithful a contempt for the deceitful world and a love for eternal glory. Pius VII, in the Apostolic letter concerning his beatification, said: "Although broken by old age, labors, prolonged arthritis, and other serious illnesses, he never ceased to discuss or write about heavenly things, until he peacefully and holily passed away at the age of ninety." And finally, Gregory XVI pronounced these words in the Bull of canonization: "He wrote many books, either to defend the doctrine of morals, or to promote the full institution of the sacred order, or to confirm the truth of the Catholic religion, or to assert the rights of this Holy Apostolic See, or to stir up a sense of piety in

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the hearts of Christians. In these, one can marvel at the unusual power, abundance, and variety of doctrine, the singular proofs of ecclesiastical concern, and the exquisite study of religion. It is truly noteworthy that, although he wrote so copiously, his works can be thoroughly understood by the faithful, after a diligent and careful examination has been made."

[*Latin ed. p. 291*]

FOR THE CITY AND THE WORLD, 291. These [points] must be joined with those which the Most Holy Lord commanded in writing (in a letter dated November 25, 1846, addressed to Father Hugues C. SS. R. concerning the German translation of the works of St. Alphonsus): The reading of [St. Alphonsus's] works is not only beneficial to the Christian people, but also to ecclesiastical men, especially those devoted to the care and governance of souls. For the books of that most holy and learned man, written with a most singular tenderness of feeling, breathe everywhere of the singular love of Christ Jesus, and of trust in His mercy and merits; they excite devotion to the most Holy Virgin and the blessed heavenly hosts; they inspire frequent attendance at the holy sacraments; and they provide abundant advice, counsel, and precepts, which are most conducive to preserving, procuring, or promoting the salvation of souls. After these things, all of Alphonsus's books are divided into three classes, namely, into dogmatic, moral, and ascetic works, concerning each of which he discussed at length, so as to show that through him the darkness of errors has been dispelled, obscurities illuminated, doubts resolved, and the enigmas of Scripture revealed, according to what Boniface VIII praises in the first chapter of *De Doctoribus Ecclesiae*. Regarding relics and venerated saints, he proceeds to the external arguments, and the Orator of St. Alphonsus first presented the doctrine contained in *Dissertatio pro usu moderato opin. prob.*, 1755, chapter 115, which says: "We indeed acknowledge that no opinion can be externally probable, unless it is also truly probable internally, that is, by reason; for reason alone constitutes the probability of opinions. But the external probability from the authority of Doctors of such standing is such that it can sometimes equal the internal probability of reason, making a certain presumption that the Doctors who have taught a certain opinion have carefully considered the truth. And this has been expressly taught by St. Thomas, 1st part, question 1, article 8, second way, where he says: '...sacred doctrine makes use of the authority of other Doctors of the Church, as if arguing from its own.'" And the Saintly Doctor clearly teaches that the authority of Doctors establishes a true internal probability. And from this, Croix rightly noted, 1. 1, n. 3, p. 65: "It can prudently be presumed that there is an internal probability where many well-known authors maintain a certain opinion; for it should not be considered that they are speaking rashly and without a serious foundation." From this, the Orator beautifully

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concluded: If the opinion of many authors...

[*Latin ed. p. 292*]

292 OF THE CITY AND THE WORLD. The argument of intrinsic reason demonstrates that, what is to be said concerning those faithful throughout the lands who agree? But Alphonsus had as his sphere of influence the entire world. And therefore, it is written in the Decree in the cause of canonization, on the third of December, 1829: "The fame of this Blessed Man, both for his illustrious deeds and for the volumes written by him, has spread throughout all nations." The excellent doctrine of the illustrious Saint has continued to flourish even during his lifetime, and after his death, it has wonderfully increased. Four Popes held the supreme chair of Peter while Alphonsus was alive: all seem to have striven to offer praise to his doctrine. Benedict XIV praised his sentiments, as those of a prudent Author, in his works; he entrusted serious men to him, concerning difficult and contentious questions; he foretold that his writings would be most readily accepted and most useful. Clement XIII wrote these words to Saint Alphonsus, to whom he had dedicated the work *Verità della fede*: "We have received your book against the errors which, at the present time, are almost entirely invading Europe, most gladly, both because it is yours, whose genius and doctrine, as well as the great zeal for God, we know from many of your other writings, and because we trust that it will be most useful and most fruitful. Furthermore, Venerable Brother, we love you very much, because you are not content to be useful to your own church alone, but you do not allow any of the time remaining to you from your ecclesiastical administration to be wasted, but you devote it all to such labors, the usefulness of which is not limited to the boundaries of your diocese, but extends to the entire Church." What Clement XIV and Pius VI thought of his zeal and doctrine can also be read in what is reported by Tannoia, *Vita ed Istituto di S. Alfonso* L 3 c. 43, Lac. 1, 3 and 43. But even greater praises were offered to Saint Alphonsus by the Roman Pontiffs after his death. Among others, it suffices to mention this: Pius VII, when three fingers of Alphonsus's right hand were sent to him, said: "Let these holy fingers come to Rome, which wrote so well for the glory of God, the Virgin Mary, and the Church." Villecourt, *La miséricorde et la joie - Étude sur la vie de S. Alph.*, vol. 4, page 250. Concerning Pius VIII, it is memorable that, before his pontificate, when he held the office of Cardinal Penitentiary, he, as Bishop...

[*Latin ed. p. 293*]

In Marseilles, he wrote: "It is certainly a matter for great rejoicing that your Lady [presumably referring to a religious community or individual] has, with most pious zeal, endeavored to foster devotion to Blessed Alphonsus; for not only have we observed in him a brilliant display of virtues, and

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a worthy ornament to the episcopal order in our time, but we also suspect that he has shone forth with sound and God-fearing doctrine in numerous published volumes, in which we are admonished by the venerable judgment that nothing worthy of censure can be found." Villecourt, op. cit., vol. 4, p. 250. And as if to add to this praise, Gregory XVI himself did so through what I have recounted above from the Bull of Canonization. Nor should we pass over what is read in the Decree of January 10, 1840, in which the same Pontiff granted an indulgence to those who, on August 2, would piously visit a church of the Congregation of the Most Holy Redeemer: "Among the brightest lights and ornaments of the Catholic Church shines Saint Alphonsus Maria de Liguori, who, distinguished by doctrine and piety, and inflamed with the highest charity, serving solely the glory of God and the salvation of souls with wondrous examples of all virtues, and with numerous most learned and pious works, after having lived a most holy life, now possesses his reward and triumphs with God." The Orator also recalled that, concerning the Supreme Pontiff under whose happy rule we now live, he had, while serving as Bishop of Cornelium, appended his venerable name to a petition in which several prelates requested that Alphonsus be declared a Doctor of the Church. These and other praises and commendations of Alphonsus, bestowed by the Roman Pontiffs, were echoed by a series of Cardinals and by the majority of Bishops, who together requested that Alphonsus be declared a Doctor of the Church. Indeed, from the extensive summary of the cause, it is clear that thirty-nine Cardinals, ten Patriarchs, one hundred and thirty-five Archbishops, and five hundred and forty-four Bishops requested this; and if we add to these the other seventy-five who had requested the same from Gregory XVI, we have the total number of sacred prelates of the Church desiring this declaration reaching almost three hundred and eighty, from almost all parts of the Catholic world. And furthermore, three Abbots of no diocese, and twenty-five...

[*Latin ed. p. 294*]

294 OF THE CITY AND THE WORLD. The Superiors General of Religious Orders, the four Theological Faculties and Colleges, fifteen Chapters of both Kingdoms of Sicily, and other associations and colleges. With these indicated, the Orator recounted most illustrious testimonies concerning the excellence of the Alphonsian doctrine, a doctrine distinguished by eloquence, erudition, and piety.

OBSERVATIONS. A synoptic discussion. IN OPPOSITION TO THE PROMOTER OF THE CAUSE. — The Most Reverend Promoter of the Cause presented numerous observations in opposition; I shall select only one or two that seem of greater importance. Among other things, he observed that the present cause was being proposed sooner than is fitting: for the holy man died in the year 1787, and in the year 1839 he was

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inscribed in the Calendar of Saints by Gregory XVI; and yet, scarcely a century has passed, and the cause for declaring him a Doctor of the Church is being proposed. However, extremes must be avoided: for as Benedict XIV, in *De Canonizatione*, Z. 4, p. 2, c. 12, said concerning Saint Bernard of Clairvaux: "that it had not yet been considered to bestow upon him, who has shown such outstanding merit and heavenly doctrine, the title of 'Doctor' in the entire Church" (this was written only six centuries after the death of Saint Bernard); thus, the other extreme of excessive concern for time must be avoided. Passing over other examples of Doctors, whose doctrine, after only a long delay, was esteemed and publicly approved and accepted, the Promoter of the Cause continued with these words: "Indeed, no one will deny that the doctrine of Liguori was so outstanding that it should be placed before that of others who flourished before him." But we inquire in vain whether this doctrine was "outstanding and eminent." For the holy man, although engaged in religious life, did not waste any time, and therefore wrote many works, which, when collected, form volumes of no small size; however, almost all of his individual works were written for the benefit of the unlearned, whether ecclesiastical or lay, and even of the weaker sex, who cannot devote themselves to more serious studies; and therefore he used the vernacular language and a simple style.

[*Latin ed. p. 295*]

URBIS ET ORBIS. 295 "Therefore, works are lacking, of the kind required in a Doctor of the Church, possessing such eminent doctrine, which are suitable for instructing the entire Church, namely, *paria*. Hence, our Author, moved above all by humility, which is the hallmark of the Christian religion, did not even consider undertaking any new work from his own pen; but, having collected many works already published by others with great labor, he reduced them to a summary and presented them in a certain form, so that they might be useful to all and adapted to the understanding of each person." Thus he acted in his dogmatic works, etc. Furthermore, the Promoter of the Faith observed much in the most excellent work on morals. And in general, he noted: "Moral Theology, indeed, exhibits a wider range of documents, collected with great labor from other books and authors." And hinting that this work should be praised as a library of authors, he proceeded thus: "If, therefore, this is almost a matter of a library, certainly its compiler will be celebrated for his diligence, skill, and no small ingenuity; but you cannot say that his own doctrine is in any way eminent, nor such as befits a Doctor of the Church. Furthermore, if you have undertaken to excerpt the documents from excellent works, you will not lack praise; but the first praise will be due to those who brought them forth. But let us speak of what is plain to all, and which the same Liguori has frankly confessed. For he says in the dedication of the work offered to Benedict XIV: "Moreover, it was my intention to bring forward many

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doctrines, which I have learned from your golden works, and by which Your Holiness has imparted to the entire republic of letters many things worthy of immortal remembrance, and which should be added." "There is no doubt of the usefulness of the work undertaken by the Holy Man, since at that time those administering the Sacrament of Penance were seeking a middle course between excessive rigor and excessive leniency. Therefore, (says the Holy Man himself in the preface to the reader), I have decided to publish this new work, which would occupy a middle ground between opinions that are too lenient and those that are too severe. But, although aided by the light of excellent doctors, the work undertaken cannot be said to be completed. For many things still remain undigested and in need of complete revision, as is especially the case with those who are engaged in lengthy compilations."

[*Latin ed. p. 296*]

296 OF THE CITY AND THE WORLD. They devoted themselves to perfecting it: as is demonstrated by the most illustrious Father Anthony Ballerini, S.J., in the Roman College, professor of moral theology, in his notes on the *Compendium Theologiae Moralis* of Father John Peter Gury. In the new edition, St. Alphonsus stated in the preface: "The work is completed, but because it was submitted to the printers too hastily, in order to satisfy others, I have not satisfied myself; for many things in it either were not well explained or were presented in a confused order." And indeed, the questions which he revised, explained, and changed while he was alive, for the better, are numbered ninety-nine in the first list. To these are added another list, or rather, are added other recent retractions of opinions, numbering twenty-six. Furthermore, other corrections would undoubtedly have been added, if other editions had appeared while he was still alive, or if he himself had lived longer. Therefore, it is not surprising that many things are found today in the same work which were not well explained by the Author, and which do not satisfy learned and prudent men.

After these remarks, the *Promotor Fidei* proceeded to discuss specific points, and first spoke of Probabilism, which he maintained was not found in a precisely defined form in the works of St. Alphonsus, and of certain opinions of moral prudence, about which the aforementioned Father Ballerini spoke in the cited work. But we shall omit these specific points for the present, both because this brief synopsis of the case would become too lengthy; and especially because the outcome of this important cause does not depend in any way on such specific questions.

RESPONSES OF THE *PATROCINATOR*. The *Patrocinator* responded to the objections raised with a very extensive argument, from which we extract only the following. After a preliminary article in which the *Orator* abundantly demonstrated that the doctrine of Alphonsus, stemming from his zeal, had been publicly approved by the Church, he

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responded to the points mentioned above with the following, among other things: "There is no law which establishes a specific time limit for this matter. Nor can it be said that, by custom, much weight should be given to time and antiquity in such cases. For in the beginning, it must be noted that the terms 'Fathers' and 'Doctors' must not be confused: the series of the Holy Fathers is contained within a certain span of centuries."

[*Latin ed. p. 297*]

OF THE CITY AND THE WORLD. 297, and certain men are included: but this cannot be affirmed of the Doctors, whose number and age are not defined: for Doctors will always be present in the Church. Therefore, it is observed that, even before Boniface VIII, without a formal decree, certain holy and learned men were recognized as Doctors, through a declaration by the Church that was equivalent to a decree, as Benedict XIV wrote in *De canon.* I. 4, page 2, chapter 12, number 9, with these words: "It seems necessary, first, that the granting of the title of Doctor was conceded before the granting of the Office and the Mass under the same title throughout the Church, concerning only the Saints Gregory the Pope, Ambrose, Augustine, Jerome (who were adorned with this title by Boniface VIII), Thomas of Aquino (who was by Pius V), Bonaventure (who was by Sixtus V). Secondly, that others throughout the Church should enjoy the same honor, although no formal declaration of their admission among the Doctors of the Church has been made, namely, John Chrysostom, Gregory Nazianzenus, Anselm, Isidore, and Peter Chrysologus." But in a declaration that is equivalent to a decree of Doctor, no regard is had for the passage of time. "But if anyone insists only on the formal declaration (these are the words of the Orator), how much variety in time will he find among the various Doctors! St. Gregory is much more recent than Ambrose, Augustine, and Jerome, and was joined with them by a decree of Boniface VIII in the year 1298. Then Thomas Aquinas, declared a Doctor in the year 1567, namely, two hundred and sixty-four years after his canonization. Later, St. Bonaventure was adorned with the honors of a Doctor, scarcely a century after his canonization. Anselm and Isidore are much older than the two recently praised, and were not called Doctors until the 18th century by Clement XI and Innocent XIII. Others then follow, not according to the time they lived, but according to the varying diligence and eagerness of those who request it. What of Leo the Great, a contemporary of Marcian, who already had the title of "Great" not only because of the sanctity of his life, but also because of the excellence of his doctrine; he was not included among the Doctors of the Church by a special decree of Benedict X until the middle of the century had passed. What of Hilary, older than Leo, the hammer of the Arians, the defender of Catholic truth, who wrote marvelously about the mystery of

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the Holy Trinity; when was he raised to the highest rank of the Doctors?"

[*Latin ed. p. 298*]

298 OF THE CITY AND THE WORLD. How many are numbered among them? In our time, by the immortal decree of the Pontiff, whom God may preserve for a long time. "Therefore, in this concession which we request, no consideration of time is taken by the Apostolic See, nor has it ever been. Only this is considered: whether he for whom the title of Doctor is requested truly deserves it." Thus the Orator responded to the objection raised concerning the brevity of time. Regarding the second objection, that the teachings of Liguori were not so outstanding as to be preferred over others who flourished before him, he replied: "It has never been heard that someone should be considered superior to others simply because, after their death, they are formally declared a Doctor by decree. Therefore, it must be said that Bonaventure should be considered more learned than Jerome, Gregory, Leo, Bernard, Hilary, Peter Damian, Ambrose, and Augustine. The title of Doctor is not given to those who themselves bear it, but to the Church; for, depending on the varying circumstances of times and the nature of errors prevalent, it is sometimes expedient to commend the writings of one author, and sometimes of another, to the faithful, so that they may diligently retain sound doctrine. And the Orator showed that St. Alphonsus had already refuted the principal errors of our time in his works, which were condemned in the celebrated Syllabus by the Most Holy Father. Responding to the third objection, which I explained above, he began: "I ask here, first of all, what the term 'Censura' means in the context of the entire Church. If it refers to the vast multitude of the Christian people who are to be instructed by Doctors, then the objection raised against him will be turned back upon the objector. Indeed, the title of Doctor would be denied to our Alphonsus if his writings could only be understood by the learned and wise; for then the entire Church would not be edified. But if the Censor means certain learned and distinguished men, such as those who remain in the Catholic Church, excluding women and children, and those, whether clerical or lay, who cannot devote themselves to more serious studies, then I ask you, please, not to confuse the meaning of words. These few points are enough to cause the most difficult objections to collapse; but it is necessary to examine each of his propositions more closely. The objection assumes that the works of the Author are of no use and benefit to learned men; but this attacks the very Letters Apostolic."

[*Latin ed. p. 299*]

URBIS ET ORBIS. 299 The papal decrees of Pius VII concerning the Beatification [of St. Alphonsus] cannot be called mendacious; indeed, the immortal Pontiff declared... EVEN LEARNED MEN, as much as the protection afforded to Alphonsus Mary [Liguori] is concerned. His predecessor,

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Gregory XVI, stipulated this, as he testifies in the Bull of Canonization: "One may marvel at the unusual power, abundance, and variety of doctrine [found] in [St. Alphonsus's] books..." But suppose, if he [St. Alphonsus] had been commanded, that no wise reader should be troubled, and that he intended only this, to write in a manner that was clear and understandable to the uneducated: would not his eminent knowledge then appear? What is more sublime or more outstanding than the documents that the supreme Master of Doctors, our Lord, has handed down? But He came to preach the Gospel to the poor, and He adapted Himself so well to the minds of the simple and to their capacity, that through parables, He explained His heavenly doctrines to the uneducated. Is not the Christian doctrine itself, when presented in its purity with simple dignity, a doctrine of outstanding importance? If the Saint had presented it in a deficient and borrowed manner, in order to avoid what is more difficult and weighty, there would be reason for objection; but the case is different. St. Alphonsus did not shun or weaken the Catholic doctrine in order to present certain particles that he might offer to the uneducated; but he embraced the whole [doctrine], and as it were, gathered it together, so that it might be grasped and understood in a shorter time and with less effort. This doctrine, though full, yet concise, how can it fail to be considered outstanding? Indeed, when other writers have described Christian theology more extensively, this very collection of scattered parts into one [work] demonstrates the greatest ingenuity and expertise of the Author. He should not be considered less wise because he has collected everything more briefly; nor should he claim the title of Doctor with less right, because his writings can be read by everyone. And the Orator illustrated this very point with examples taken from other Doctors of the Church and most learned men; and with regard to the alleged simplicity of style, he cited what Baronius wrote in the Annales, vol. 2, p. 269; and Lac. Bonfrerius, Praeloquia in totam scripturam, c. 10, sect. 1 (Cf. Migne, Script. S. Cursus, vol. 1, p. 159), where Bonfrerius concludes: "Therefore, he must be called eloquent in every respect, who preserves that 'decorum' in all things; who knows how to judge what and how, according to the place."

[*Latin ed. p. 300*]

300 OF THE CITY AND THE WORLD. "The manner of speaking must be adapted to the time, the persons, and the purpose of the speaker." Regarding this matter, I say in the present context that God, being in every respect most wise and eloquent, has adopted in Holy Scripture that form and character of speech which most suited His purpose, which was to move the minds of men to those things which would more certainly lead them to His glory and eternal blessedness; and because that polished and refined speech, in which many curious and delicate words move the ears more than the things said move the minds, was less suitable to this purpose,

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He rejected it, and adopted a simpler style, which was more fitting to His purpose. "From this kind of eloquence," (as the Orator noted), "neither did Gregory the Great shrink, as he himself wrote in a letter to Leander, which is prefixed to his Moral Works. But the Orator denied that the style with which St. Alphonsus wrote his books was so low as to be unbecoming of a Doctor of the Church; on the contrary, he showed that Alphonsus used a style which was proper to a Doctor of the Church, citing the most excellent St. Isidore of Seville, a Doctor of the Church, from *De Officis*, addressed to St. Fulgentius, chapter 5, concerning Matthew 5:13, which reads: "He who leads and instructs people in virtue must be holy in all things, and must not be found blameworthy in anything... and must urge all to good works, both by teaching and by example. And he must also have a knowledge of Scripture... Furthermore, if he is learned both in doctrine and in speech, he can also instruct and teach others, and refute opponents, who, if they are not refuted and convicted, can easily pervert the hearts of the simple. His speech must be pure, simple, open, full of gravity and honesty, full of sweetness and grace, treating of the mystery of the law, of the doctrine of faith, of the virtue of chastity, of the discipline of justice, admonishing each one with a different exhortation, according to his profession and the quality of his morals; that is to say, he must indicate what, to whom, when, or how he will present it." "He diligently and excellently preserved all these things," (so the Orator), "and accomplished them, our Holy Author, who in his various works, according to the different subject matter and the persons, used a simple style, sometimes a more elaborate style, and sometimes even a more elevated style. He certainly, according to the very warnings of Tully himself and Quintilian, sought clarity above all else, as if..."

[*Latin ed. p. 301*]

URBIS ET ORBIS. 301, as he stated in the preface to his Moral Theology, "For I have endeavored above all to abound in clarity, rather than in the elegance of language." But this pursuit of clarity never resulted in anything being unpolished, crude, or barbarous from his pen. If the greatest praise and victory of eloquence, as the learned Cicero noted, is to win over the hearts of the audience, and to bend and move them as one wishes, then nothing is more eloquent than the writings of Alphonsus, where a certain hidden and divine virtue lies concealed, which gradually shines upon the minds of the readers; it gently soothes them, bends them, transforms them, illuminates them, and impels them towards that which it intends. The Ordinaries of Austria and Spain, rightly praising the efficacy of his books, joined with sweetness, expressed themselves in these words: "It surpasses all belief... how much faith, religion, and piety have increased in all nations through the writings of this Holy Man, which have been happily disseminated everywhere. The sweetness of honey in his style of writing;

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the unction of the Holy Spirit in his very words; a certain heavenly purity combined with clarity in his teachings." Regarding the second proposition, which the Censor stated, that the Saintly Man wrote in the vernacular language, the Orator responded in this manner: "Even the Fathers of the Church and the Scriptural writers, not to mention the Doctors, wrote their books in the vernacular. Moses and the other writers, almost all of the volumes of the Old Testament, while writing in Hebrew, used the vernacular language. Daniel wrote his prophecy in Chaldean; but in that region and in that age, that language was common. The language of Aramaic, which is a mixture of Hebrew and Syriac, which Matthew is said to have used, was used by him because it was the vernacular of the Hebrews at that time. The Gospel was written in Latin by Mark, as Peter taught, because at that time, in our city, of which Peter was the first Bishop, our ancestors spoke Latin. And the greater part of the Scriptures of the New Covenant was written in Greek, because there were countless people in the known regions of the world who spoke the Greek language." The Fathers and Doctors of the Church acted in the same way: using whatever language each one used, which the people commonly employed, among whom they gave sermons or wrote. The language in which the books of Athanasius, Basil, Gregory of Nazianzus, and John Chrysostom are written is considered learned and literary by us; but if you consider the time and the nation, that language was common.

[*Latin ed. p. 302*]

302 OF THE CITY AND THE WORLD. Which every most unskilled reader and listener would easily understand. What is now more fitting for a learned and erudite man, than that Syriac sound of words, which is heard in the books of St. Ephrem? But that manner of speaking was adopted by the Holy Scripture, because it was vernacular among his people and was understood by them. The same can be said of the Latin language, which Ambrose, Augustine, Hilary, Leo, and Gregory the Great used. Indeed, even St. Jerome, the greatest Doctor, wrote in Latin to Paula, Eustochium, and other excellent women, because for those disciples of the following sex, this was a proper and familiar language; and for the same reason, Ambrose wrote his books "On Virgins and Widows" in Latin. "Therefore," the wise theologians of the Neapolitan College translated, "the Holy Priest deserves the greatest praise, because although he has written many works in Latin, he has also written some in Italian: No one should blame him for this, because it constituted the greatest part of his praise. For if he had only written in Latin, he could never have spread the documents of Christian doctrine so widely."

Turning to the other part of the objection, in which Censor Alphonso was noted as having written nothing of his own, but having collected things from others and adapted them to each person's understanding;

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he responded with many things, and with several passages from the Alphonsian works brought to light, to show that he was not a servile follower of foreign doctrines, but that he had consulted previous works, which appeared in a certain style of writing, and therefore he had shown himself to be endowed with the highest erudition, and thus he concluded his speech: "Whoever thoroughly investigates all these things in the books of the Holy Author, will find not a compiler of foreign goods, and a collector who humbly repents, but a most excellent mind endowed with a certain creative power, which reveals many things of itself, and brings hidden things to light; with a wonderful synthesis, it gathers together what was scattered; and with diligent analysis, it separates what was confused and distinguishes it appropriately. If, at times, he uses the labors of others, he is like a bee, which, with industrious work, extracts from various herbs and flowers whatever is sweetest, and makes its own honey, which has a new and unique fragrance and taste, and which cannot rightly be called a mixture of flowers and grasses..." It could be concluded that St. Alphonse collected in some works that had been published by others, so that they could be more easily recognized.

[*Latin ed. p. 303*]

OF THE CITY AND THE WORLD. "303 points which would be adapted to the understanding of most people, and of each individual. But even if we grant this, would it prevent Doctor Alphonsus, a pillar of the Church, from being declared a Doctor? Have not many other illustrious Fathers and Doctors done the same?" Doctor Maximus, writing to Theophilus, confesses in his second letter: "Hilarius, while refuting the harmful aspects of Origen, preserved the useful ones; and I have done the same." And Jerome did not merely draw from Origen, but also from other ecclesiastical writers who flourished before him. Witnesses to this are, among others, the *Commentaries on Matthew*, where he quotes the words and opinions of Ignatius and others. What more need be said? It caused no shame to Jerome to translate into Latin what others had written in Greek (which is much easier than to condense into a summary), and for this he is praised in the Roman Breviary. St. Augustine, in Book 2 against Julian, chapter 28, declares that he has almost nothing to add to the words and arguments of St. Hilary in the refutation of the Pelagians; indeed, he praises him greatly and quotes extensively from the books of the Bishop of Poitiers. And in his immense and classic work, *The City of God*, how many passages did he collect and cite, not only from ecclesiastical authors, but also from secular ones! This is known to learned men, even those who are not Catholic, who recover fragments of Varro, Cicero, Sallust, and others that were otherwise lost." "Let us also mention Ambrose, near to Augustine, who, in the work entitled *Three Books on the Holy Spirit*, not only quoted Didymus, but also Basil and Athanasius, so that he gathers together everything that could ever be

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said to prove the divinity of the Holy Spirit" (Rmus Fessier, *Institutiones Patrologiae*, vol. 1, p. 686). "Was it a disgrace to John Damascene that he composed a book, entitled *Parallel Lives*, from passages of the Holy Scriptures, the Holy Fathers, and even secular authors?" "Does anything detract from the praise of St. Thomas, who, in the *Golden Chain* on the four Gospels, arranged his own exposition from the books of various Doctors?" (Dedication letter to Urban IV). "Indeed, in those three dogmatic treatises (*Disputation on the Catholic Faith*; *Antilogus against the Jews*; and *Dialogue between a Jew and a Christian*) which St. Peter Damian left us, besides his letters and sermons, nothing is found that had not previously been explained abundantly and excellently by many Holy Fathers."

[*Latin ed. p. 304*]

Throughout the city and the world, matters are touched upon in only a few words; although, in other respects, especially in eradicating the Simonian heresy, the merits of this Saint are most excellent and outstanding. "Therefore, if we acknowledge, and indeed bestow the highest praise upon, the ancient Fathers and Doctors, why is the glory of Alphonsus diminished, if he has accomplished in certain works what they had accomplished?" This is what the Orator said; who then turned his discourse to the individual works. But the Orator was presented with a vast field of discourse through the adverse criticisms made against the work on moral matters: for it is evident to all that Saint Alphonsus has demonstrated a truly singular skill in the most difficult matters of morals, so that he should be considered to have been inspired by God to accomplish that work, which ought to be a standard in such a variety of opinions; especially against the growing opinions, stirred up or arising from the Jansenist doctrine, which everywhere gradually and insidiously transformed the just Christian rules of conduct into a most grievous yoke. Therefore, regarding the aforementioned objection of the Censor, I omit the title of the library, which, among the merits of the same work, is knowingly recounted. Neyraguet, in his *Compendium Theologiae Moralis de Conscientia*, attributed to Saint Alphonsus the highest honor, noting (as the Orator observed) that he "presents the opinions of all the Doctors who have discussed the matter of morals," so that his Theology may supplement the opinions of other authors. Furthermore, Scavini, in his *Theologia Moralis, Tractatus de Conscientia*, wrote: "Among the most learned and recent Moralists, he is the most outstanding," who declares that he has, for many years, examined the volumes of numerous classical authors, and has most skillfully weighed their doctrines; in this regard, it should be noted that the author, in any controversy, is accustomed to clearly and simply present all the opinions of the Doctors and the points of reason upon which they are based, sincerely presenting a catalog of the writings of better repute... (so that) in their study, they have almost before their eyes a countless number of Theologians and Canonists. Therefore, the

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Orator observed that moral theology should be treated in such a way that, since the middle of the 16th century, the sacred canons, the definitions of the Church concerning morals, the Apostolic constitutions, and the propositions condemned by the Holy See, should not be omitted, and that these form the positive foundation of the moral discipline.

[*Latin ed. p. 305*]

URBIS ET ORBIS. 305 The authority and jurisdiction are contained within [these limits], which it would be sacrilegious to exceed; nor should the authority, although it may be private, of approved Theologians, especially of the Saints and those considered classical, be disregarded: "No one," it is said, "will reproach the Holy Author if he has accomplished all these things, provided that he has been pertinent to the matter." But (the Orator continues) the Holy Author not only cites the opinions and authority of Doctors, but also diligently examines and weighs the reasons presented, and the objections or difficulties raised against them, and finally pronounces his judgment: often introducing a reason that no one had previously used. In the preface to his Moral Theology, he says: "Furthermore, I have endeavored, as much as possible, to expound my own opinion, giving due weight to the greater, equal, or lesser probability of each opinion, as it seemed to me fitting, so as not to leave the reader perplexed, as some do who, referring only to the opinions of others, present themselves as being not a little learned." Moreover, the greatest praise is due to that most excellent mind, which, in a science obscured by many shadows, beset by many obstacles, and perplexed by many questions, discovers a safe and clear path that leads to the truth, neither turning to the right nor to the left; and then shows this discovered path to others clearly, and proves it so that it pleases those to whom judgment belongs, and gains the favor of the wise. Retain these things diligently, and observe what the Holy Prelate has accomplished. In the middle of the eighteenth century, discord among the Authors treating of Moral Theology had grown so great that there were scarcely any topics about which there was no disagreement. The Rigidists were more severe, the Mitigists were milder, the Probabilists were stricter, and the Probabilists were more lenient, all fiercely defending their opinions. Above all, the Rigidists wanted their doctrines to be considered intolerable, as if perfectly in conformity with the Gospel and the teachings of the Holy Fathers, and it was forbidden to anyone to speak against them without the open peril of eternal damnation. In this great variety of opinions, confessors had no choice but either to swear by the words of some school or master, or to undertake a most serious and difficult task, to which few were equal; namely, to examine all the controversial opinions and to choose those that seemed to them to be equally distant from rigorism and laxism. Therefore,

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a man of acute intellect was needed.

[*Latin ed. p. 306*]

306 OF THE CITY AND THE WORLD. Endowed with profound learning and long experience, and devoted to the study of all matters, and guided solely by the greater glory of God and the salvation of souls, he diligently and religiously examined all controversial opinions, carefully weighing the arguments for and against, and finally, by pronouncing his judgment, he made clear the path for confessors, so that they might safely proceed in the sacred exercise of the ministry, from which the eternal salvation of the faithful depends to a great extent. "But St. Alphonsus, by the arrangement of divine providence, has truly accomplished this in his moral theology, as is proclaimed by all in our time..." For these reasons, those to whom the judgment belongs have heaped the highest praises upon the work of Alphonsus. The Roman Pontiffs, although most sparing in bestowing such encomiums, have nevertheless not refrained from honoring Alphonsus with praise. I will say nothing of the Cardinals of the Most Holy Roman Church, of the Archbishops, Bishops, superiors of religious orders, and others, whose suffrage and testimonies are clearly set forth in the very documents themselves. From this, the speaker presented many testimonies to show what and how great is the judgment that learned and public writers have given concerning the moral work of St. Alphonsus. Some of these testimonies I will present. "How much," (say the Professors of the Faculty of Theology at the University of Louvain) "the works of St. Alphonsus on moral matters have shed light for the conversion of souls throughout the Catholic world, and how stupendous the fruits of penance they have brought to the entire Church, and furthermore, the words of prelates and priests of all regions testify so constantly that the doctrine of St. Alphonsus has not illuminated only one region or another, but has taught and enriched the entire Church, and it is rightly and deservedly proclaimed." Furthermore, by the counsel of divine providence, this most abundant and salutary source has flowed forth from that time onward, when the most grievous flood of wickedness burst forth upon the human race... The Doctors of the theological college of Bologna write among other things: "It is very important to declare whether, in that moral theology, sanctity or wisdom more excels. For there is such power of genius in it, such a wonderful prudence for the defense of sound doctrine, such a restraint in the face of the most violent opponents, that from it a soldier of God is made perfect in every way."

[*Latin ed. p. 307*]

IRBIS ET ORBIS. 807 » Let it be argued... It is of the greatest benefit. Alphonsus's opinions » (already highly esteemed by all, even before being attributed to the Saints) have gained such widespread acceptance through-

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out the nations, that no ecclesiastical superiors fail to favor them, no ministers of the Church fail to embrace them, and no one sitting in judgment fails to adopt them. And this has been demonstrated and confirmed by the adversaries themselves: for the leaders of the most extreme factions have nothing to offer, since all the most learned men of our time seem to agree that Alphonsus's books should be interpreted and illuminated with commentaries. Today, Alphonsus's precepts are not only found among the Italians, but also among the French, the Belgians, and the Germans, but throughout all of Europe, indeed, as far as the Church catholica extends. The reason why the moral work of the Saint deserves so much praise is, most learnedly, addressed by the Professors of the Theological Faculty at the University of Vienna, who say: "We believe that the greatest merit by which St. Alphonsus distinguished himself is that he expounded, with remarkable erudition, a doctrine of morals, equally distant from immoderate rigor and excessive lenity, a doctrine truly filled with the genuine spirit of the Church; he proved it most clearly, explained it most acutely, and defended it vigorously against his adversaries with victorious arguments." Cardinal De Rohan-Chabot, Archbishop of Vesontio, in a circular letter addressed to his clergy (dated July 5, 1831, in Rome), after receiving the well-known response from the Sacred Penitentiary, wrote: "Nothing could have been more desirable for us, most beloved, nothing... could have been more useful to you yourselves, than that we might be able to propose to you a certain standard for the governance of souls, especially in the administration of the Sacrament of Penance, which each of you can safely follow... Therefore, as we share that response with our clergy, we greatly congratulate you, because the opportunity is given to us, indeed, an effective remedy for calming the movements of dissenting minds and ensuring the tranquility of consciences. Since, in Rome, the judgment is of this kind, that we must adhere to it completely... we earnestly urge you, with paternal affection, to put it into practice... so that that which the Apostle says (1 Corinthians 1:10) may be observed, which he so strongly commends; I implore you, brothers, in the name of our Lord Jesus Christ, that you all say the same thing, and that there may be no schisms among you.

[*Latin ed. p. 308*]

308 OF THE CITY AND THE WORLD. "But the perfect are in the same sense and with the same understanding." Cf. Gousset, *Justification de la Théolog. mor. du B. Alphonse*, Besançon 1832, page 251, where you will find other very suitable passages; and also pages 15 and 27, where you will also find a most excellent testimony from the Reverend Father Emi Gousset. To these two ornaments of the Roman and Gallican Churches, it is fitting to add three Italian prelates, contemporaries of the Author, of whom one, the Reverend Father of Baza, formerly Bishop of Melphi, said: "P. D. Alphonsus, with this his *Moral Theology*, has defeated Jansenism,"

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having "restored the doctrines of moral theology to their rightful state, and has aided us Bishops in the government of souls." Cf. Tannoia, Book 1, chapter 16, page 647. Another, the Reverend Father Lupoli, formerly Bishop of Cerreto, added: "I would not dare to be a Bishop, if I did not have on my table the *Moral Theology* of Monsignor Liguori." A third, the Reverend Father Minutoli, formerly Bishop of Miletus, said of himself: "For so many years that I have been a Confessor in Naples, I have not known another *Moral Theology* than that of Monsignor Liguori. I have used this in Naples; I want my diocesan confessors to follow it, and with it I govern my diocese. He cannot fail who follows it, because it is the work of a holy Bishop, full of God, and full of zeal for the salvation of souls." Cf. Tannoia, *loc. cit.* Also, the Reverend Father Kenrick, formerly Archbishop of Baltimore, when addressing his own moral work, said: "We have put all our effort into it, so that from the teachings of St. Thomas and from the ancient school, and from St. Alphonsus, from more recent authors, we might gather what should be considered regarding each case." *Theol. mor.*, Volume 1, Philadelphia, 1841. And in the preface to his work: "St. Alphonsus of Liguori stands out among the more recent moral theologians... (who) has left us the fruits of science and practice in the moral theology that he wrote. We have always kept this before us while preparing this work, and we have often copied his words, and we have gladly followed his authority." Another Bishop of the American Church, Mullock, wrote: "The great and principal work (of St. Alphonsus) is his *Moral Theology*, one of the most learned works on the subject ever published... It has since gone through countless editions, and has always been regarded as a standard authority." *The Life of St. Alphonsus*, Dublin, 1862, pages 130, 132.

[*Latin ed. p. 309*]

URBIS ET ORBIS. 309 I omit the most illustrious testimonies concerning the moral theology of St. Alphonsus, which were provided by two Italian writers renowned in moral theology: Scavini, in the Preface to his moral theology, and in the treatise on conscience; and D. Frassinetti, in the *Compendium of Moral Theology*. D. Martinet wrote: "It would already be superfluous to defend this excellent work, since it is clear from the following two facts: 1° That the Liguorian theology, or rather, its compendiums, are studied day and night by almost all pastors and confessors... 2° That, among the moral theologies published in recent times, the Liguorian theology easily holds the foremost place, due to the immense, yet not confusing, wealth of learning, due to the singular prudence, experimental knowledge, and sanctity of the most holy Author, and above all, due to the repeated approbation of the Holy Apostolic See." *Theol. Moral. Parisiis 1867, vol. 1, p. 277.* D. Mulier likewise wrote: "I have placed St. Thomas and St. Alphonsus above all others... How much authority this saintly Bishop possesses in moral matters is evident from the judgments and encomiums

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of the Church... Nowadays, scarcely a province in the Catholic world can be found where this praised work, along with his other writings, does not enjoy great dissemination and esteem." *Theol. moral. Vindobonae 1868, vol. 1, Preface, and p. 17, 4.* Furthermore, D. Bernardus Sala, who, in a compendium opposing the Alphonsian work, seriously discusses the authority of the aforementioned Author, concludes: "It is easy to deduce that, among the many writers on Moral whose opinions may licitly be followed because they are not disapproved by the Church, the opinions of St. Alphonsus of Ligorio should undoubtedly be given preference." *Theol. mor. en noventa conferencias... Vich 1868, conference 1.* D. Raymundus Miguel, the Spanish translator of the work *Homo Apostolicus*, among other things, wrote: "It is useless to say that the moral theology of St. Alphonsus M. de Ligorio belongs to this class [of those who illuminate the world with the brilliance of their doctrine]. No one, without incurring the mark of recklessness, will be able to criticize the writings of this illustrious Author... What extraordinary weight is added to his doctrine! A Doctor who teaches with word and with example is a Doctor twice over: and a Doctor who becomes a saint by practicing what he teaches can make many saints."

[*Latin ed. p. 310*]

310 OF THE CITY AND THE WORLD. "Works of St. Liguori. The Apostolic Man, instructed. Barcelona, 1846. Father Joseph Mach, S.J., noting how highly the works of St. Liguori are esteemed by the learned, writes: "One difficulty remained, and that was to find a faithful guide, who with perfect certainty would lead the inexperienced priest through the rough and intricate paths of moral theology. But divine Providence has granted us this good angel and sure guide in the person of St. Alphonsus Liguori..." Among the most praiseworthy works of moral theology, one certainly among the most authoritative and worthy of study, commentary, and illustration... is the moral theology of St. Alphonsus Liguori. Everything recommends it exceedingly." *Treasury of the Priest*, 4th ed. Barcelona, 1866, part 1, chap. 2, p. 50. Father Neyraguet, in the preface to his work, wrote: "What is more useful than the Moral Theology of St. Alphonsus? It is to be noted that: 1st, the author, having before him the most distinguished sayings and insights of other Doctors... carefully weighed their opinions, and through prayer and the exercise of virtues, he merited to be aided by heavenly light above others... 5th, Guided by no cupidity, and free from all particular doctrines, adhering with all his heart only to the doctrine of the Roman Church, he accurately presents the decisions of the Holy See, which others often overlook; with this principal aim in mind, to refute the most bitter enemies of sound doctrine, the Jansenists, to expose their errors, and to bring them back to the ancient rules of the Catholic Church. 6th, Countless clergy, conspicuous for their knowledge and piety, follow his doctrine and are most devoted to his

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studies, exercising the holy ministry with great success. 7th, Scarcely can another Doctor be found who has written so much and so thoroughly on matters of morals... Therefore, it is not surprising that in these times, this theology is sought after and desired everywhere, that it is recommended by ecclesiastical superiors, and that it is extolled by outstanding Doctors... that it is spread throughout the entire world, and is in the hands of almost all clergy." I will not proceed further, omitting others, such as Father John Gury, Father Montrouzier, *Revue des sciences ecclesiales*, no. 94, October 1867, p. 302, and Father Zecchertelli, three authors from St. Liguori, who wrote on theology.

[*Latin ed. p. 311*]

(IRBIS ET ORBIS» 31 1 comp. Migne t. Up. 332: and also, most excellent praises have been bestowed by learned periodicals, as can be seen: *Unità Cattolica*, July 16, 1864, October 1, 1868, February 23, 1867. *Revue des Sciences ecclésiastiques*, no. 56, August 1864, p. 159. With these most excellent encomiums of the Author brought to light, and with the description of the applause with which numerous editions were disseminated throughout the entire world, that observation made by the Censor is, in itself, very far removed from the truth, as if the Moral Work of Alphonsus were reduced to a mere compendium of opinions, in which the Author's merit would be found to be nothing more than that of a laborious compiler. To those parts of the Censor's observation which oppose this, namely, that the work cannot be said to have been completed, and that other amendments would undoubtedly have been added if other editions had appeared, or if the Author had lived longer, the Orator responded, among other things, as follows: "The first editions of the work must not be confused with the work which the Saintly Author left at his death. This must be considered, not the initial attempts, which always require something to be amended, tempered, and perfected; which the Saintly Author accomplished..." Indeed, I do not wish to importune the excellent Censor by drawing him away from moral disciplines to mathematics; but it is fitting to remember that amendments to works, which are made properly and religiously, proceed through a decreasing series; and therefore, the more the file is applied by the Author, the smaller the number of errors, or defects, which require correction. Indeed, the Saintly man added a list of ninety-nine questions revised in the second edition. In the edition of 1767, he added twenty-three more. Later, in the *octava*, which he published in 1779, eight years before his death, he made only three corrections to the text. "Thus, it came to pass that, upon his death, the work was considered completely perfect, and the Apostolic See was able to propose Alphonsus as a most reliable guide, whom confessors in all matters of morals should follow. Indeed, not once have the Roman Congregations, rather than directly resolving doubts, delegated inquiries to Alphonsus, as if to an oracle. Thus, when a very important question was

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proposed to the Holy Penitentiary by the Bishop of Cattolica, concerning interrogations to be made by a confessor..."

[*Latin ed. p. 312*]

312 OF THE CITY AND THE WORLD. Regarding the fulfillment of conjugal duties, on June 8th, he responded: "Let the words of the learned man, Saint Alphonsus de Liguori, and the most astute in these matters, be considered, who in *Praxis Confessariorum*, § 4, n. 41, says: 'Concerning the sins of spouses with regard to the conjugal duty, speaking in an orderly manner, the confessor is not obliged, nor is it fitting, to ask, except of the wives, whether they have performed it, in a more modest way so that it may be possible. He should remain silent about other matters unless he has been asked.' Also, the Holy Congregation of the Holy Office, in response to the question: 'Are those who are prevented from going to Rome in person, obliged to seek absolution from reserved cases by letter, or through a procurator, from the Apostolic See?' responded on July 18, 1860: 'Let the Bishop [N.] and the Orator consult approved authors, among whom is Saint Alphonsus Maria de Liguori.' And when more doubts were presented to the same Holy Congregation concerning the absolution of a partner in a shameful vice, the following response was also issued on the same day: 'Let the Bishop [N.] and the Orator consult the Decretals of Clement III and approved authors, among whom is Saint Alphonsus de Liguori, *Theol. moral.* I. 7, c. 1, dub. 5, n. 84 to 92.' And the Orator, citing several similar responses, continued as follows: 'If anyone were to say that Alphonsus, while still living, diligently worked on correcting errors and discovered more that had been omitted in the first or second edition, and which could then be improved; I say that it would not be surprising, that among so many thousands of questions, he might have found some opinions that he had initially considered sufficiently probable, but which, after repeated examination, he recognized as certainly and notably less probable. Indeed, he considered it necessary, with the utmost care and scrupulosity, and not just once, to examine and weigh the reasons for each opinion from both sides; as is evident from the text, *Theol. moral.*, book 3, n. 547... I have always feared that God would demand the same reasoning from me if I had approved lax opinions as probable, as if I had disapproved probable opinions as lax. These corrections worthy of mention are reported by Father Tannoia, the author's biographer, *loc. cit.*, book 1, c. 28, page 183. - In Naples [in Italian], these corrections were not pleasing to those venerable Congregations; since they judged the corrected opinions to be generally quite firm and based on classical authorities. Some even went so far as to say that it was not honorable to the author.'

[*Latin ed. p. 313*]

URBIS ET ORBIS. 313 "Ita me, dicit Alphonsus, quidquid velint,

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non quaero gloriam meam, sed animarum bonum gloriamque Christi Iesu." - Tanta fuit in Sancto Auctore religio, tam sincerum studium quo veritatem inquirebat!... Utinam omnes Theologi, tam rigidiores, quam benigniores, eandem semper in veritate inquirenda sollicitudinem adhibuissent! "Adnotatione praeterea facta, emendationes quoque fecisse in suis Operibus alios Ecclesiae Doctores, quod ipsorum laudi vertitur, inter quos ipse Thomas et Augustinus, sic defensionem suam quoad animadversionem de qua agimus Orator conclusit. "His generatim propositis, propius ad quaestionem accedere fas est; nam revera multa hodie reperiri monet Censor, quae in Theologia morali non bene excusa Auctori exciderunt, quaeque doctis prudentibusque viris satisfacere nequeunt. Instare fas est et rogitare: qualia haec sint? ... Hic censura se tuetur nomine honorabili P. Antonii Ballerini, moralis theologiae antecessoris." Attamen ab eo viro qui certe S. Alphonsi auctoritati nunquam serviliter adhaesit, vix tantum Censor decerpere potuit, ut pauciores quam triginta locos adduceret, quibus in rem suam uteretur; dum quaestiones, quae in morali Theologia pertractantur, innumerabiles sunt. Cetera sane nullius momenti ad disputationem nostram Censor esse putavit. Nam siquid grave et solidum, praeter ea quae adduxit, deprehendisset, pro officio suo nominatim designasset. Nec grave et solidum quidquam esse poterat; nam si opiniones aliquae adhuc disceptabiles in S. Alphonso reperiuntur, nulla tamen falsa vel temere prolata dici potest (1). (1) Haec et similia Oratoris verba in aestu defensionis prolata, si ad accuratam veritatis normam expenderentur, non undequaque vera reperirentur. Namque, si disceptabiles in S. Alphonso reperiuntur opiniones, eo ipso aliqua falsa dici poterit, si falsa demonstretur: secus enim non essent realiter disceptabiles. Nulla quidem dici potest temere prolata, quatenus culpabilis temeritatis nota inurenda S. Viro esset: cui nemo contradicit. Celebre Decretum S. Poenitentiariae omnes quidem et singulas S. Auctoris opiniones tuetur, seu comprehendit, quin tamen reprobet aliorum probatorum Auctorum sententias: quae possunt esse quoque contrariae. Decretum enim seu Responsum S. Poenitentiariae latum est non super veritate cuiusque S. Auctoris opinionis: sed latum est ex principio moralis prudentiae, secundum quod quisque tuto agit, qui sequatur sententias eorum, qui et sana doctrina praestiterint et integritate morum refulserint: quae dotes in S. Alphonso praeclarae sunt, recognitae ipso S. Sedis iudicio.

[*Latin ed. p. 314*]

314. Regarding matters of great importance. Indeed, the Holy Penitentiary Tribunal safeguards all and each of the sentiments of the Author [St. Alphonsus] so that those who govern souls may safely follow them, without having to weigh or consider the various opinions on the same subject; nay, it may even uphold an oath given to defend and teach the sen-

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timents of the Probabiliorists. This most splendid praise has been granted to St. Alphonsus, and has not been bestowed upon any other Doctor of the Church (unless my memory deceives me). Thus, without any hesitation, the Roman Pontiff could solemnly include in the Bull of Canonization the most serious words that Jerome had spoken about St. Hilary, namely: "all his works can be traversed with an unoffending foot." However, whatever the circumstances may be, and whatever objections may be raised, we are prepared to respond to each one individually; and there will be no lack of solid arguments with which to vigorously refute the attacks made against the doctrine of the Holy Father. Thus far, the Orator, who then proceeds to address certain specific points of doctrine. Furthermore, another man, deeply versed in moral matters (from the Ligurian family, I believe), took upon himself the task of defending the Holy Author from such attacks as the Orator had mentioned. He completed this task with a work almost entirely written, which consists of five hundred or more pages, printed in small type on folio paper. It is fitting to extract some general statements from the Preface, which bring the general discussion of the cause closer. "It is often assumed," says the aforementioned man, "by esteemed Professors, that St. Alphonsus was led to various, either acceptable or unacceptable, opinions solely by the authority of other Doctors. But this is directly contradicted by the Saint himself. For he writes in *Theologia Morali*, book 3, chapter 547: 'It will easily happen, in this matter...' that I will not satisfy the judgment of all; for those who also break out from his writings in the Cause of Canonization." This is evident from the very Response of the Holy Penitentiary Tribunal, about which I have written more fully in Volume I, pages 97 and following, and those who would contend otherwise about the same Response would clearly err, and would not be aided by the cause of St. Alphonsus, either in this matter or in any other. What aids the cause is this: that no author, writing on moral matters, can claim for himself that particular declaration: by which it has come to pass that the guides of consciences are certain of one approved author through the Holy See itself. And, considering the manner of acting of the Holy See, this is a matter of great importance.

[*Latin ed. p. 315*]

ORBIS ET ORBIS. 315 "Rigid or benign judgments are often, perhaps too strongly, either excessively severe, or, because I have deviated from the opinions of many learned authors, I may seem too harsh; or perhaps too lenient, because I have approved of several opinions favorable to liberty, as if they were probable. I testify to God, whose honor and the salvation of souls I have set before me, that whatever I have written has not been prompted by any passion, nor have I been attached to the words of certain authors, nor have I been excessively attached to severity or leniency, but in writing these things, in every question, after careful and prolonged study, I

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have indeed striven to investigate the truth, especially in those matters that more directly concern practice; and therefore, I have not only diligently examined the reasons presented by the Doctors of the Church, but I have also not neglected to consult many more recent teachers; so that, at times, in making a correct judgment on a certain question, I have spent many days. Indeed, I have not followed the footsteps of the writers (as the rigorists put it) blindly, but I have endeavored to attain the truth, or to embrace opinions that are more in accordance with truth. To the best of my ability, I have always preferred reason to authority; and when reason has convicted me, I have not hesitated to contradict even those authors to whom I might perhaps have adhered more readily, because, when this science was added to my knowledge, they came to my hands before others..."

"Furthermore," continues the same Ligorian defender, "the esteemed Ballerinius objects to St. Alphonsus false allegations of authors. We readily concede that a few authors, among many, may have been cited by our saint in a way that is not entirely accurate, for some particular opinion. But what theologian, dealing extensively with moral discipline, would not be subject to the same reproach? ... Indeed, speaking in a human way, it cannot but happen that in a larger work, such as the moral theology of St. Alphonsus, among the many thousands of cited authors (1), some will be cited incorrectly. In the nearly four thousand questions that comprise the entirety of moral theology, and in which St. Alphonsus cites and examines the opinions of approximately eight hundred authors, there are at least thirty-four thousand such citations. Therefore, the author himself could rightly affirm in the preface of the work: 'You will find here all the moral questions and matters that are more useful for practice. In order to select opinions that are more in conformity with truth, I have not spared much labor in every question; for many (elsewhere he says fifteen) years, I have examined the volumes of many classical authors."

[*Latin ed. p. 316*]

316 (ERRORS AND OMISSIONS: these are present, especially when dealing with questions and opinions that involve various distinctions and limitations. We have mentioned this before; for it will become clear from what follows that not St. Alphonsus, but rather the esteemed Ballerini, errs to a considerable extent, by citing the texts of the authors less accurately...). Finally, the same Ligorian Defender observes that there is no obligation to follow the opinions of writers, even if they are among the Blessed or Saints; indeed, the opinions of these very writers can also be challenged; however, this challenge must be made with due reverence, and must be moderate and based on sound reasons; as Benedict XIV states in *De Canonizatione*, I, 2, chapter 34, paragraph 12. In particular, in the Constitution *Sollicita ac provida*, § 2, 4, the Pope speaks of St. Thomas Aquinas, praising the moderation of his writing and the most honorable manner in which he

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engaged in discussion and debate with his opponents, condemning the contrary manner of acting, even though it is permissible to hold different opinions... Therefore, the most learned Cardinal Villecourt writes in *Vita S. Alphonsi*, volume 4, page 421: "From this, one can form an idea not only of the labors and fatigues that accompanied this prodigious work, but also of the merit and excellence of this work." And the Right Reverend Manning, Archbishop of Westmonasteriensis, speaking of the moral works of the Author, writes: "The works of St. Alphonsus are, I can say, the Summa of moral theology, just as the works of the immortal St. Thomas are the Summa of dogmatic theology. To compose them, Alphonsus consulted faithfully and diligently the theologians who had preceded him. Approximately eight hundred were read and analyzed by him. The conscientious, assiduous, and meticulous work required for such a task is not surpassed in the history of the Church..." See the work entitled *La confiance en Dieu et la mission de S. Alphonse*, Paris 1868, page 130. (Note the praise of the defender). (1) "How different is the judgment that spontaneously arises from the public regarding a certain writing, from what others make of the very person who wrote it." Those who know the esteemed Father Anthony Ballerini, and who have heard his lectures (for I myself heard him teaching on moral matters for a year), would scarcely be moved by certain of his statements, which seem harsh on the surface. For he is a venerable man, endowed with a sharp wit and a lively imagination, who has always been wary of the vestiges of Jansenism; hence, it is not surprising if he is sometimes carried to the opposite extreme, and if the reasoning of his statements appears repeatedly; if the celebrated Melchior Cani possessed such eloquence, his reasoning might not differ greatly from the writings of this author. Furthermore, he is pleasant in teaching, and if you were to demonstrate to him that his opinion is less probable, and instead of saying that it is less probable and less true, you were to say that it is absurd, illogical, and without any foundation, and other similar things, you would not disturb his mind in the least. Moreover, St. Alphonsus is universally respected, which is evident from numerous annotations made by him.

[*Latin ed. p. 317*]

OF THE CITY AND THE WORLD. 317 To these were added two opinions from the Consultors, which were requested by the Sacred Congregation: one of the Consultors, adhering almost entirely to the reasons which I have previously set forth from the arguments of the Advocate for the Cause, was of the opinion that St. Alphonsus should be declared a Doctor of the Church, with the title of Doctor being extended. The other, however, while touching upon the principles which govern such causes, and their application to some extent, was inclined to a contrary opinion. Therefore, the cause having been debated in the Sacred Congregation of Rites on March

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11, 1871, presented by the Most Reverend Cardinal Constantino Patrizi, and the cause having been considered, a response was issued: "It is to be considered whether to grant or declare, and to extend to the entire Church, the title of Doctor in honor of St. Alphonsus Mary de Liguori, with the Office and Mass already granted, adding the Creed, the Antiphon to the Magnificat in both Vespers: 'O Doctor,' and the Lessons: I Nocturn, Wisdom; and VIII Responsory: 'In medio Ecclesiae.'" Regarding this matter, on March 23, 1871, the Reverend Secretary reported to the Most Holy Father, who approved and confirmed the response of the Most Holy Congregation, and ordered a general Decree to be issued, which is set forth below. FROM WHICH YOU MAY GATHER: I. That the title of Doctor of the Church has been bestowed from ancient times upon those luminaries, with the consent of the entire Church, who, by the brilliance of their lives, have in some way illuminated the entire Church through their writings. II. That they are not called Doctors for their own sake; but for the Church to which they have rendered most excellent service, whether in refuting prevailing errors, or in illuminating the Sacred Scriptures, or in explaining the deposit of Revelation, or in guiding morals. III. That the eminence, and therefore the doctrine (which in some Doctors of the Church was entirely angelic), has not been absolutely considered in order to declare them Doctors, but rather relatively to some great effect which, through outstanding intellect, sanctity, and doctrine, they have achieved for the Church in various circumstances. IV. That therefore, among the Doctors of the Church, if the doctrine is considered absolutely, the distinctions are made, not only according to the subject matter, but also according to the text itself which they chose to explain in their teaching. The Compendium compiled by Father Johannes Gurj is, in fact, little more than a compendium of Alphonsian doctrine.

[*Latin ed. p. 318*]

318 OF THE CITY AND THE WORLD. Very great and very small stars; yet all of them illuminated the Church for the sake of the condition of things. V. Therefore, this good thing, conferred upon the Church, is a principal argument for honoring the Holy Man with the title of Doctor of the Church; which openly signifies the eminence of doctrine that the Church seeks for this reason. VI. Furthermore, it may be understood that such causes cannot be fruitfully promoted before the Holy See in order to obtain the formal declaration of a Doctor, unless there has already preceded some support from the Church which signifies such a real good. VII. All of these things are abundantly found in Saint Alphonsus of Ligouri, who, through the sanctity of his life, and through his copious writings, especially in moral matters, shone so brightly that he almost extinguished the entire practical Jansenism, and thus deserved the support of almost the entire Church: and therefore, he should be held as a Doctor of the Church and a guide of moral prudence in our age. DECREE OF THE CITY AND THE

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WORLD. "Among those who have done and taught, and whom our Lord Jesus Christ called great in the Kingdom of Heaven, Saint Alphonsus Maria of Ligouri, Founder of the Congregation of the Most Holy Redeemer and Bishop of Santâ□□Agata deâ□□ Goti, deserves to be remembered. He, being an example of all virtues, like a lamp placed upon a candlestick, shone so brightly for all the faithful who are in the House of God, that he has already been counted among the citizens of the Saints and the household of God. And what he accomplished through holy actions, he also taught through words and writings. Indeed, he dispelled and removed the darkness of errors, widely spread by the unbelievers and the Jansenists, through learned works, and especially through his treatises on Moral Theology. He illuminated what was obscure, and clarified what was doubtful, providing a safe and certain path, through which the guides of the souls of the faithful could proceed with an unoffending step, amidst the entangled opinions of theologians, whether lax or rigid. At the same time, he accurately illustrated and vigorously asserted the doctrines of the Immaculate Conception of the Virgin Mary and the infallibility of the Supreme Pontiff teaching from the Chair, which in this our age have been declared dogmas. Finally, he revealed the enigmas of the Scriptures, both in ascetic matters..."

[*Latin ed. p. 319*]

OF THE CITY AND THE WORLD. Through his writings, imbued with a certain heavenly sweetness, and also in a most salutary commentary, in which he explained the Psalms and Canticles to be recited by clerics in the Divine Office, in order to foster their piety and enlighten their minds. Pope Pius VII, of blessed memory, had already been astonished by the wisdom of Alphonsus, and had commended him, because, with his voice and his writings, he showed the way of justice to those wandering in the darkness of this age, so that they might pass from the power of darkness into the light and kingdom of God. Another Supreme Pontiff, Gregory XVI, of blessed memory, followed suit, praising the unusual power, abundance, and variety of doctrine in the books written by him, as evidenced in his decretal letters, in which Alphonsus was granted greater honors from Heaven. Indeed, in these our times, the wisdom of Alphonsus is so widely known, and his praise so widely proclaimed, that many Cardinals of the Holy Roman Church, almost all the Sacred Prelates of the entire world, the Superiors of the highest Religious Orders, distinguished theologians from academies, illustrious collegiate churches, and learned men from every group, have humbly presented petitions to the Most Holy Lord, our Pope Pius IX, in which they expressed their common desire that Saint Alphonsus Maria de Liguori be honored with the title of Doctor of the Church. His Holiness, graciously accepting these prayers, entrusted this most important matter to the Congregation for Sacred Rites. Therefore, in the Ordinary Assemblies held in the Vatican Palace on the following date, the Most Eminent

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and Reverend Fathers Cardinals, entrusted with the preservation of the Sacred Rites, after hearing the report of the Most Eminent and Reverend Cardinal Constantino Patrizi, Bishop of Ostia and Velletri, Dean of the Sacred College, and Prefect of the same Congregation, and after considering the observations of the Reverend Father Doctor Peter Minetti, Promoter of the Holy Office, the patron of the cause, and the opinions of the theologians regarding the truth; and after carefully deliberating on all matters, they unanimously decided to recommend: That the Most Holy Father be petitioned to grant or declare, and extend to the entire Church, the title of Doctor in honor of Saint Alphonsus Maria de Liguori, in addition to the Office and Mass already granted, with the addition of the Creed, the Antiphon to the Magnificat in both Vespers, "O Doctor," and the Lessons from the Book of Wisdom for the First Nocturn, and the eight Responsories, "In medio Ecclesiae." March 11, 1871.

[*Latin ed. p. 320*]

320 OF THE CITY AND THE WORLD. "Afterward, having learned of all these matters and of each individual one, the Most Holy Pope Pius IX received a faithful report concerning them from the undersigned Secretary of the aforementioned Sacred Congregation; and His Holiness approved and confirmed the Decree of the Sacred Congregation; and ordered that a General Decree for the City and the World be issued, on the 23rd day of the same month and year." C. Ep. Ostien. et Velitern. Cardinal PATRIZI, S. R. C., Prefect. In place of the Reverend Monsignor D. Bartolini, Secretary. FROM THE SECRETARY'S OFFICE. APOSTOLIC LETTERS CONCERNING SAINT ALPHONSUS MARY DE LIGORIO, RAISED TO THE TITLE OF DOCTOR OF THE CHURCH. PIUS PP. IX. FOR THE ETERNAL MEMORY. "Christ the Lord promised that He would never abandon His Church, especially when He foresaw that His immaculate Spouse would be in great need, He stirred up with piety and doctrine outstanding men, who, filled with the spirit of understanding, would pour forth the eloquence of their wisdom, like rain. Indeed, it was not without the most provident counsel of Almighty God that, when the doctrine of the Jansenists, with its novelties, turned its gaze towards him, and attracted many under the guise of error, and when it was acting with great force, ALPHONSUS MARY DE LIGORIO, a member of the Congregation founded by the Most Holy Redeemer, and Bishop of Sant'Agata de' Goti, opened his mouth in the midst of the Church, striving for the good; and with learned and laborious writings, he sought to uproot this pest that had been stirred up from the depths, and to exterminate it from the Lord's field. And Alphonsus did not seek these things only for himself; but for the glory of God,..."

[*Latin ed. p. 321*]

APOSTOLIC LETTERS. With a singular focus on the spiritual salvation

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of men, he wrote numerous books, filled with sacred learning and piety, either to safeguard the safe path by which the guides of Christian souls might proceed without offense, amidst the entangled opinions of theologians, some lax and others rigid; or to instruct and edify the clergy; or to confirm the truth of the Catholic Faith and to defend it against heretics of every kind; or to uphold the rights of this Apostolic See; or to stir up the hearts of the faithful to piety. It can truly be said that there is no error of our times, at least in a large part, which has not been refuted by Alphonsus. And what is more, those things which, concerning both the Immaculate Conception of the Holy Mother of God and the Infallibility of the Roman Pontiff teaching from the Chair, have been approved by the Christian people and by the frequent assemblies of prelates from all the Catholic world, and which We have sanctioned, are found in the works of Alphonsus, expounded most clearly and demonstrated with the most powerful arguments. "Therefore, this most noble proclamation of divine Wisdom applies perfectly to him: His memory shall not fade, and his name shall be required from generation to generation; the nations shall recount his wisdom, and the Church shall proclaim his praises." And our predecessor, Pope Pius VII, of blessed memory, marveling at the great wisdom of Alphonsus, gave this weighty testimony about him: "That he, by word and by writing, showed the way of justice to those wandering in the darkness of this age, by which they might pass from the power of darkness into the light and kingdom of God." Also, our blessed and revered predecessor, Pope Gregory XVI, praised the incredible power of speech, the abundance, and the variety of Alphonsus's doctrine with the highest commendations, and enrolled him among the ranks of the Saints in Heaven. Finally, in these our times, many Cardinals of the Holy Roman Church, almost all the prelates of the entire world, the superiors of the highest religious orders, distinguished bodies of theological societies, illustrious colleges of canons, and learned men from every group, have offered us supplications, that we might honor Saint Alphonsus Maria de Liguori with the title of DOCTOR OF THE CHURCH and increase his honors. Therefore, wishing to comply with these pious requests, We are determined to undertake this most important matter, as is customary, before the Congregation of the Most Holy Fathers, Cardinals, Prefects of the Sacred Congregation for the Discipline of the Clergy.

[*Latin ed. p. 322*]

322 APOSTOLIC LETTERS. We have decided to proceed with this matter. Indeed, after the Congregation of Cardinals, convened in the Ordinary Sessions at the Vatican Basilica on the eleventh of March of this current year, having heard the report of our Venerable Brother, Constantine, Cardinal Patrizi, Bishop of Ostia and Velletri, Prefect of the same Congregation, and having considered the case presented; after considering the observations of the esteemed Son, Peter Minetti, Priest, Promoter of the Faith; and also

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the responses of the Patrons of the cause, and the opinions of theologians regarding the truth; and after carefully and diligently examining all the relevant considerations, it was unanimously decided to write: "We request that His Holiness be consulted regarding the granting, or declaration and extension, to the entire Church, of the title of Doctor in honor of Saint Alphonsus Mary de Liguori, along with the Office and Mass which have already been granted; adding the Creed, the Antiphon to the Magnificat in both Vespers, "O Doctor," and the Readings: I Nocturn, "Sapientiam," and VIII, "Responsorio," "In medio Ecclesiae." - We deemed it fitting to approve and confirm this rescript, which was published on the twenty-third of the same month and year, by a General Decree of the City and the World. But the esteemed Son, Nicholas Mauron, Superior General and Major Rector of the Congregation of the Most Holy Redeemer, humbly petitioned the aforementioned Congregation of Cardinals, for the preservation of the rites of the Church, that in the Feast of the same Saint Alphonsus, through the Decree, of which mention has already been made, among the Doctors of the Church, inscribed in the Roman Martyrology, after the words: "In the lists of the Saints," the following be added: "and Pope Pius IX, after consultation with the Congregation of Sacred Rites, declared him a Doctor of the Universal Church"; and also, in the VI Reading, after the word: "accensuit," the following be added: "indeed, Pope Pius IX, after consultation with the Congregation of Sacred Rites, declared him a Doctor of the Universal Church"; and that all concessions made regarding this matter be confirmed by our Apostolic Letters. This Congregation of Cardinals, after deliberation in a meeting held on the twenty-second of April of this year, responded: "Granted." Therefore, on the twenty-seventh of the same month, we approved that rescript, and ordered that Apostolic Letters be prepared in the form of a Brief. Since these things are so, the aforementioned esteemed Son, Nicholas Mauron, having followed the wishes, and in accordance with the legitimate rites of the Holy Roman Church, recognized by the Congregation of Cardinals, with authority...

[*Latin ed. p. 323*]

APOSTOLIC LETTERS. 323 By these present letters, We, with Our Apostolic authority, confirm, or, if necessary, grant anew, the title of DOCTOR to the Reverend Alphonse Mary de Liguori, Founder of the Congregation of the Most Holy Redeemer and Bishop of Sant'Agata de' Goti, so that he may always be considered a Doctor in the Universal Catholic Church, and that on the anniversary of his feast day, a Mass and Office be celebrated by both the Regular and Secular clergy, according to the Decree and Rescript of the Sacred Congregation of Rites, which We have mentioned. Furthermore, We will and order that the books, commentaries, treatises, and indeed all the works of this Doctor, as of other Doctors of the Church, be cited, presented, and, when necessary, used, not only privately, but publicly in

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gymnasiums, academies, schools, colleges, lectures, discussions, interpretations, sermons, and all other ecclesiastical studies and Christian exercises. Finally, that the piety of the faithful may be more aroused to duly observe the feast day of this Doctor, and to devoutly seek his intercession, We, confident in the mercy of Almighty God, and by the authority of the Apostles SS. Peter and Paul, mercifully grant to all Christian faithful of both sexes, who on the feast day of this Doctor, or on one of the seven days immediately following, chosen by each faithful at their own discretion, having truly repented and having received sacramental confession, shall receive the Most Holy Eucharist, and who shall devoutly visit one of the churches of the Congregation of the Most Holy Redeemer, and there offer pious prayers to God for the concord of Christian princes, the eradication of heresies, and the exaltation of the Holy Mother Church, that those who shall do so on the aforementioned day, shall receive, from the Lord, a Plenary Indulgence and remission of all their sins, which may also be applied for the benefit of the souls of Christian faithful who, being united with God in charity, have departed from this life, as a form of suffrage. Therefore, We command that all Very Reverend Fathers, Patriarchs, Primates, Archbishops, Bishops, and beloved sons, Prelates of other Churches, established throughout the world, by these presents, publish what has been stated above solemnly and publicly in their provinces, states, churches, and dioceses, and that it be observed by all ecclesiastical persons, secular and regular.

[*Latin ed. p. 324*]

SECTION 4. APOSTOLIC LETTERS. We decree and command that these things be observed inviolably and perpetually everywhere, in all places and among all peoples. We enact this, and we command it, notwithstanding any Apostolic Constitutions, and in all General, Provincial, and Synodal Councils, and any other general or special Constitutions and ordinances, and all other things whatsoever that might be contrary. Moreover, We wish that to the copies or exemplars of these present Letters, even those printed, signed by the hand of a public Notary, and sealed with the seal of a person constituted in ecclesiastical dignity, the very same faith be given, as would be given to the present Letters themselves if they were exhibited or shown. "Given at Rome, at St. Peter's, under the Fisherman's Ring, on the 7th day of July, 1871, in the twenty-sixth year of Our Pontificate." For the Most Reverend Cardinal Paracciani Clarelli. Felix Profili, Substitute. In the place of [the Fisherman's Ring]. APOSTOLIC LETTERS, BY WHICH MORE LIBERALLY IS PROVIDED FOR THE RITE BY WHICH ST. JOSEPH, PATRON OF THE CATHOLIC CHURCH, IS TO BE CELEBRATED. PIUS PP. IX. FOR PERPETUAL REMEMBRANCE. "The illustrious Patriarch, Blessed Joseph, whom Almighty God willed to be, above all the Saints, the purest and truest spouse on earth of the Immaculate Virgin Mary, and the putative father of His only-begotten Son, and to whom He

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abundantly bestowed and accumulated singular graces, so that He might faithfully fulfill such sublime duties, the Catholic Church rightly follows with the most ample worship and honors, and venerates with the deepest affection. Therefore, the Roman Pontiffs who preceded Us..."

[*Latin ed. p. 325*]

APOSTOLIC LETTERS. 325 Our predecessors, in order to increase daily, and to excite more ardently in the hearts of the faithful devotion and reverence for the holy Patriarch, and to encourage them to implore his intercession with the greatest confidence before God, have not neglected, whenever a suitable opportunity presented itself, to decree new and ever greater public observances in his honor. Among these, it suffices to recall the blessed memory of Our predecessors, Sixtus IV, who wished to insert the feast of Saint Joseph into the Breviary and the Roman Missal; Gregory XV, who by decree of May 8, 1621, ordered the feast itself to be celebrated throughout the world under a double precept; Clement X, who on December 6, 1670, granted the feast the rite of a double of the second class; Clement XI, who by decree of February 4, 1714, adorned the aforementioned feast with its proper Mass and Office; and finally, Benedict XIII, who ordered the name of the holy Patriarch to be added to the litanies of the Saints by a decree issued on December 19, 1726. And We ourselves, after having been, by the inscrutable judgment of God, elevated to the supreme Chair of Peter, moved both by the example of Our illustrious predecessors, and by the singular devotion with which We have always felt towards the same holy Patriarch since our youth, decreed on September 10, 1847, with great joy of mind, to extend the feast of his Patronage to the entire Church, which was already celebrated in several places by a special grant of this Holy See. But in these recent times, in which a terrible and most grievous war has been declared against the Church of Christ, the devotion of the faithful towards Saint Joseph has so increased and progressed, that countless and most fervent petitions have reached Us from all sides, which were recently, during the Sacred Ecumenical Council of Vatican, renewed by every group of the faithful, and, above all, by many of Our Venerable Brothers, Cardinals and Bishops of the Holy Roman Church, in which they implored that, in these sorrowful times, we might more efficaciously implore the mercy of God through the merits and intercession of Saint Joseph, declaring him the Patron of the Catholic Church. Therefore, moved by these petitions, and invoking Divine light, We have judged it fitting to assent to so many and so pious wishes, and by a special decree of Our Sacred Congregation of Rites, which is among the...

[*Latin ed. p. 326*]

326 APOSTOLIC LETTERS. We have decreed that the solemnities pertaining to Our Patriarchal Basilicas, the Lateran Palace, the Vatican,

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and the Liberian, be publicly celebrated on the eighth of December of the year 1877, in honor of the Immaculate Conception of Her, the Spouse. We have solemnly declared the Blessed Patriarch Joseph, Patron of the Catholic Church. And We have ordered that his feast day, which falls on the nineteenth of March, be celebrated henceforth throughout the world with a double rite of the first class, although without an octave, because of the Lenten season (1). And since We deem it fitting, after Our declaration of Saint Joseph as Patron of the Catholic Church, that all and singular honors be given to Him in public ecclesiastical worship, which are due according to the general rubrics of the Breviary and the Roman Missal to the principal Patron Saints, therefore, renewing, confirming, and furthermore amplifying the aforementioned disposition of that Decree with these present Letters, We command and enjoin the following. We decree that, both on the feast of the Nativity of Saint Joseph, and on any other occasion of his patronage, even if it falls on a day other than Sunday, the Creed, or "Symbolum," should always be added in the Mass. We further decree that in the prayer "From all," whenever it is recited, the commemoration of Saint Joseph should always be added after the invocation of the Blessed Virgin Mary, and before any other patron saints, except the Angels, and Saint John the Baptist, with these words: "with Blessed Joseph." Finally, We decree that, observing this same order among the prayers for the saints, whenever those prayers are prescribed by the rubrics, the following commemoration should be added in honor of the same Saint Joseph. (At Vespers Antiphon): "Behold, a faithful and prudent servant, whom the Lord has appointed over his household." Glory and riches are in his house. His justice abides forever and ever. (At Lauds Antiphon): "He was about thirty years old when he was reckoned the son of Joseph." The mouth of the just speaks wisdom. His tongue speaks judgment. (Oration) O God, who, with ineffable providence, deigned to choose Blessed Joseph as the spouse of your most holy Mother, grant us, we pray, that we may have him as an intercessor in heaven, whom we venerate as a protector on earth (1).

(1) You have the aforementioned Decree of the Holy Congregation of Sacred Rites explained on page 193.

[*Latin ed. p. 327*]

APOSTOLIC LETTERS. 327 "that we may merit to be in the heavens." We decree and command that these Our letters be firm, valid, and efficacious, and that they produce and obtain their full and complete effects, notwithstanding any Apostolic Constitutions and Ordinances, and all other contrary things whatsoever. We wish that to these present letters, or to copies thereof even handwritten by a public notary, and sealed with the seal of a person constituted in ecclesiastical dignity, the very same faith be given as would be given to the present letters if they were exhibited or shown.

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Given at Rome, near St. Peter, under the Fisherman's ring, on the seventh day of July, 1871, in the twenty-sixth year of Our pontificate.

Place 3.

Sign of the Most Reverend Cardinal Paracciani Clarelli.

Substitute, from the Sacred Congregation for Indulgences.

CONCERNING THE PIOUS EXERCISE OF THE WAY OF THE CROSS, WHICH, WITHOUT LIMITATION OF PLACE, MAY BE ESTABLISHED IN ANY CHURCH OR PIOUS PLACE, WITH THE OBSERVANCE OF WHAT IS DUE.

DECREE FOR THE CITY AND THE WORLD.

"The salutary exercise of the Way of the Cross, or Calvary, greatly contributes to recalling the memory of the Passion of Our Lord Jesus Christ, Who, for the excessive charity with which He loved us, suffered insults and wounds, and shed His precious blood to redeem the human race from the servitude of sin, and offered Himself, crucified on the cross, as a holocaust for sins. Therefore, the Supreme Pontiffs, so that the faithful may more often join themselves in thought to Christ who suffered in the flesh, not only commend the pious exercise of the Way of the Cross, or Calvary, but also, opening the treasure of the Church, have added to it Indulgences.

[*Latin ed. p. 328*]

328 OF THE CITY AND THE WORLD. "Truly, the stations of the Way of the Cross could only be erected in churches, and in pious places, subject to the Order of the Minor Observants, and those who belonged to that Order enjoyed indulgences. However, with the passage of time, the granting of indulgences was extended to all the faithful who devoted themselves to this holy devotion in the aforementioned churches and pious places of that Order; and, furthermore, Pope Benedict XIV of blessed memory, in his Apostolic Letters in the form of a Brief, published on August 30, 1741, granted that the erection of the stations could also be made in other churches not subject to the aforementioned Order, with a certain limitation, which was more clearly declared by a rescript of the Sacred Congregation for Indulgences and Sacred Relics, dated May 10, 1742. Indeed, this Pope wished to include this declaration, among the instructions for properly performing the pious exercise of the Way of the Cross, which had been written by order of Pope Clement XII and confirmed by himself, under number X, with these words: "Excepting, however, those places where the convents of the aforementioned Friars Minor (Observants, or Reformed, or Recollects) are located, so that in such cases, the Way of the Cross should not be erected in other churches not subject to the same Order. But if said convents were not located so far from the town or city, or if the road was so difficult that, without serious inconvenience, to be judged by the Ordinary, the holy

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exercise could not be frequented (1)." Recently, the Most Holy Father, Pope Pius IX, having been presented with the most humble petitions, considered it highly desirable that, in these most sorrowful times, in which the enemies of the Cross of Christ strive to undermine all that is divine and human, the pious exercise of the Way of the Cross be promoted more and more, and that the erection of these stations, without the aforementioned limitation, may be possible everywhere in churches and pious places. His Holiness, observing that meditation on the passion and death of our Redeemer has great power to strengthen faith in the hearts of men, and (1) These Italian words are thus translated into Latin: "Excepting, however, those places in which the monasteries of the Friars Minor (Observants or Reformed or Recollects) are located, so that, in such a case, the Way of the Cross should not be established in other temples not subject to the same Order. But if said monasteries are not so far from the town or city, or if the road is so difficult that, without serious inconvenience, to be judged by the Ordinary, the pious exercise cannot be frequented."

[*Latin ed. p. 329*]

OF THE CITY AND THE WORLD. §29 To heal the wounds of conscience, to purify the ranks of the mind, and to kindle divine love, an audience was held on May 14, 1871, by the undersigned Cardinal, Prefect of the Holy Congregation for Indulgences and Sacred Relics, who, graciously accepting the aforementioned petitions, by Apostolic authority granted, that Stations of the Way of the Cross, together with the attached Indulgences, may be erected even in places where there exist convents of the aforementioned Order of Minor Friars, whether of the Observants, or of the Reformers, or of the Recollects, even if they are found in churches, chapels, and pious places of the same Order, without regard to the limitations and distances previously expressed, provided that all other legally required conditions are observed. Furthermore, His Holiness, by the present decree, does not intend in any way to derogate from the private faculty which the same Order has in carrying out the erection of Stations of the Way of the Cross, nor from special Indulgences granted to other persons in this matter by the Apostolic See, due to particular circumstances and places, the tenor and form of which must be observed in all respects. "Notwithstanding any contrary provisions, even those deserving of special and individual mention, to which His Holiness has fully derogated, as if a specific mention had been made in each case." Given in Rome, from the Sacred Congregation for Indulgences and Sacred Relics, on May 14, 1871. A. Cardinal BIZZARRI, Prefect. For the Reverend Father, Dominic Sarra, Substitute.

[*Latin ed. p. 330*]

330 DECREE CONCERNING THE PIOUS SCAPULARS AND CONDITIONS FOR OBTAINING INDULGENCES. December 17, 1870. "Since

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the Holy Congregation for the Propagation of the Faith sometimes grants missionaries the faculty of blessing and bestowing scapulars upon the Christian faithful, certain doubts have arisen, which have been presented to the aforementioned Holy Congregation by bishops and missionaries, and which have been transmitted by the same to this Holy Congregation for Indulgences and Sacred Relics, namely: " I. Whether a priest who has obtained from the Holy See the faculty of blessing scapulars, thereby possesses the faculty of bestowing them upon the Christian faithful, and of enrolling them in confraternities approved by the Holy See? " II. Whether the prior canonical erection of such confraternities by the local Ordinary is necessary, so that those who have from the Holy See the faculty of enrolling in said confraternities may also enroll the Christian faithful in them? " With the force of special faculties granted by the Most Holy Pope Pius IX, the Holy Congregation for Indulgences and Sacred Relics, after careful and diligent consideration, has decided to respond as follows. To I. Affirmative, but with the proviso that priests who have legitimately obtained the aforementioned Indult for blessing scapulars from the Apostolic See, shall keep a private register, and shall be obliged to transmit, as soon as conveniently possible, to their superiors the names of those who receive them, so that they may be entered in the register of the respective canonically erected sodality. " To II. The following instruction shall be given. INSTRUCTION "Certain pious sodalities have been approved by the Apostolic See in such a way that the Christian faithful everywhere may be enrolled in them by those who have the legitimate faculty, even if the aforementioned sodalities have not been canonically erected in those places.

[*Latin ed. p. 331*]

DECREE. 331 It is not found that particular dioceses have been established for certain confraternities, such as, for example, the Confraternities of the Scapular of the Most Blessed Virgin Mary of Mount Carmel, the Rosary, and the Seven Sorrows: and therefore, with regard to these sodalities, no prior erection by the Bishop is required within the diocese. "However, if a confraternity is approved by the Holy See for a specific territory, no prior erection by the Bishop is required, but a priest possessing an Apostolic mandate to admit members cannot exercise that mandate except within the same territory in which the pious sodality is circumscribed. "Likewise, no prior erection by the Bishop is required if a pious sodality is legitimately established within the diocese by Superiors of regular orders, who, by concession from the Apostolic See, have a special privilege for this purpose, provided that the conditions set forth in the Constitution of Clement VIII, beginning with the word 'Quaecumque,' are observed. "Given these premises, it is clear that those who, as mentioned above, have obtained from the Holy See the faculty to bless scapulars, and to bestow

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them and admit the faithful, can exercise that faculty only with regard to confraternities of the scapular that are canonically erected, as explained above, and if a clause is included in the Indult regarding the consent or license of the Ordinary, that clause, along with other conditions prescribed by law, must be strictly observed. "In order that those who possess the aforementioned faculty may be sufficiently instructed in the blessing and bestowing of scapulars, the Resolutions of this Holy Congregation, issued in Rome and Cambray on August 18, 1868, which are of the following tenor, are communicated (1). "Rome. Since the small scapulars that the faithful commonly wear are, in their origin and institution, nothing other than scapulars belonging to various religious orders, reduced to a smaller form for the greater convenience of the faithful, doubts have been raised by the Reverend Procurator General of the Congregation of the Most Holy Redeemer, which are to be resolved by this Holy Congregation for Indulgences and Holy Relics, concerning both ancient and more recent scapulars, namely: (1) These two Decrees, concerning the case of Rome, and then the case of Cambray, having been prepared with the observations of the Consultors, were presented in Volume IV, pages 99 and 219: here we repeat them, both for the integrity of the present Decree, and also because in Cambray, a third doubt was omitted in the present Decree, which, however, is abundantly supplied by the response here presented to the 1st Doubt. Also, see in Volume IV, Appendix V, page 237.

[*Latin ed. p. 332*]

332 DECREE. » I. Whether, for the making of the Scapular, wool must necessarily and exclusively be used as the material, or whether other materials, such as linen (or cotton) or similar substances, may also be used. » And to answer affirmatively to the first part, and negatively to the second. » II. Whether the term "Pannus," "Panniculus," commonly used by authors, should be understood in a strict sense, i.e., of only the properly called woven fabric (tessuto), or whether it can also be understood to include woven fabric with a looped structure (commonly known as knitted fabric, tricotage) and any woolen work embroidered (ricamo, broderie), provided that it is done in the prescribed color. » III. Whether a Scapular made of woolen fabric of the prescribed color is valid, which has ornaments, either woven or embroidered, also made of wool, but of different colors. » IV. Whether a Scapular made of woolen fabric of the prescribed color is valid, which has ornaments, either woven or embroidered, made of a non-woolen material, e.g., silk, silver, gold, etc. » V. Hitherto, the general practice has been to make Scapulars in an oblong, or at least square, shape. Now, however, in some regions, the practice of making Scapulars in a round or oval shape, or even polygonal shapes, is being introduced. Therefore, the question is asked, whether a different shape, other than oblong or square, is detrimental to the validity of the Scapular. » VI. In many regions, a praiseworthy

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practice, approved by the Holy See, is flourishing, which is that of wearing several Scapulars simultaneously, each different from the others, in such a way that the "panniculi" of the various Scapulars are attached, some overlapping others, with only two cords, so that, however, the "panniculi" of each individual Scapular are attached both to the chest and to the shoulders. However, it is not uncommon for these united Scapulars to be joined in such a way that, although there are many "panniculi" of different colors, only one "panniculus" is attached at each end of the cords, in which is visible an ornament woven or embroidered in different colors, to signify the various different Scapulars. The question is asked whether these different Scapulars are valid. » Therefore, the Eminent Fathers, in the General Congregation held in the Apostolic Palace of the Vatican on July 20, 1868, after first hearing the opinion of the Consultor, and after mature deliberation, deemed it necessary to write.

[*Latin ed. p. 333*]

DECREE. 333 Regarding I. Affirmative concerning the first part, negative concerning the second part. Regarding II. Affirmative concerning the first part, negative concerning the second part. Regarding III. Affirmative, provided that such ornaments are present, so that the prescribed color predominates. Regarding IV. As in the preceding. Regarding V. Nothing is to be innovated. Regarding VI. Negative. "And after a report concerning the aforementioned matters was made to His Most Holy Father Pope Pius IX by myself, the undersigned Cardinal Prefect, during an audience held on August 18, 1868, His Holiness approved the resolution of the Holy Congregation." "Given in Rome, etc. A. Cardinal BIZZARRI, Prefect. A. Colombo, Secretary." "From Cambray. It sometimes happens, especially during the time of Sacred Missions, that when a priest legitimately appointed for that purpose bestows the Scapular of the Blessed Virgin Mary of Mount Carmel or another upon the faithful, the scapulars are lacking before all the faithful can have their wishes fulfilled; therefore, the Superior of the house of the Religious Society of Mary in the archdiocese of Cameracensis, located in the territory commonly called Turkey, humbly petitioned the Holy Congregation, which presides over Indulgences and sacred Relics, for a solution to the following doubts."

I. Whether a single scapular, once blessed, can validly be bestowed upon several people in turn, provided that the formula for reception or imposition is repeated for each individual.

II. Whether the formula commonly used in the act of bestowing scapulars is essential, so that one may be considered to have received the scapular properly, and to have the right to the Indulgences granted with it; or whether it can be omitted without the loss of Indulgences, especially in illness or another urgent case.

Therefore, the Most Reverend Fathers, in the General Congregation held

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in the Apostolic Palace at the Vatican on July 20, 1868, having first heard the opinion of the Consultor and after mature deliberation, decided as follows:

Regarding I. Affirmative; however, it must be ensured that the first scapular, which the person must henceforth wear, is blessed.

Regarding II. Both concerning the first and second parts, the words that are essential to the form of this Decree of the Holy Congregation must be spoken.

[*Latin ed. p. 334*]

334 DECREE. From the Congregation of August 24, 1844, which reads as follows: Regarding the admission of the faithful to the Confraternity of the Blessed Virgin Mary of Mount Carmel, which is performed by priests who possess the faculty, but without observing the form described in the Ritual and Breviary of the Order of Carmelites: The Sacred Congregation responded: Affirmative, provided that the priests possessing the faculty do not fail in the essential elements, namely, in the blessing and the imposition of the scapular, and in the reception into the Confraternity. Thus declared the Sacred Congregation on August 24, 1844. "And after a report on the aforementioned matters was made to His Holiness Pope Pius IX by the undersigned Cardinal Prefect of the Sacred Congregation, in an audience held on August 18, 1868, His Holiness approved the resolution of the Sacred Congregation. Given, etc. A. Card. BIZZARKI, Prefect. A. Colombo, Secretary." "Given at Rome, from the Secretariat of the Sacred Congregation for Indulgences and Sacred Relics, on January 26, 1871."

FROM WHICH ONE MAY GATHER:

I. That in the faculties granted by the Apostolic See for blessing pious scapulars, the faculty is also understood to include the imposition of the scapular and the admission of individuals to confraternities.

II. That the faculty for blessing scapulars, both in the intention of the one requesting it and in the intention of the one granting it, is sought and granted with the intention that the full act of co-opting brothers into the pious confraternity may be completed.

III. Therefore, although Rescripts granting the faculty to bless scapulars may, on the surface, seem to mention only the blessing of scapulars, they nevertheless implicitly contain all the faculty necessary for the purpose for which that faculty is granted (1).

IV. Furthermore, those who may have obtained the Apostolic faculty to bless all scapulars, and therefore to admit the faithful into pious confraternities for the purpose of gaining indulgences, must observe the presupposed conditions regarding the places in which the faithful may be admitted, and the canonical erection [of the confraternity].

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(1) How such faculties for blessing scapulars arise, which, as I said, may seem imperfect on the surface, is easily understood. For example, they arise from petitions.

[*Latin ed. p. 335*]

DECREE. 335 V. Some pious societies are canonically erected in a diocese in such a way that members can be recruited from all parts of the Catholic world; others are erected and restricted to a single diocese, so that only diocesan members can be admitted (I). VI. Therefore, it is futile to enroll outsiders in those pious societies that are restricted to a particular locality; and it is necessary for them to obtain canonical erection in each place or diocese. VII. Such canonical erection can also be effected in a particular place or diocese by a priest who has the authority from the Apostolic See to erect it, subject to any conditions that may be added, such as the consent or permission of the Ordinary (2). (1) See the Decree concerning Andegaven, Volume I, page 628, and also Fermo, Volume IV, page 271. (2) These points, which I have noted in general terms here, are better understood from the individual statutes and from the nature of the particular society in question; for societies that have, as it were, a pious scapular as a badge, already have a certain defined form according to the prescriptions of the Apostles. But difficulties may arise in various pious societies, which are multiplying in our time, in which it seems scarcely possible to invoke the Constitution of Clement VIII, *Quaecumque*. In the time of Clement VIII, such pious societies either did not exist, or were not considered by ecclesiastical law. Indeed, such societies are nothing other than a means by which pious priests foster piety in certain groups of people, either through certain pious prayers recited at fixed hours, or in order to provide some common pious exercise among several people, or in order to encourage some of the faithful to practice certain virtues by the example of others, and other similar things. Therefore, these pious societies, although bearing the same name, are multiplied and instituted in every parish, or church, or hall. Those who establish them seek spiritual favors; and the Holy See does not usually deny them, since they contribute to the advancement of piety. Mention is repeatedly made of canonical erection, but this canonical erection can only be understood in a broad sense, given the nature of these institutions, and it cannot take place unless it is accompanied by the explicit or tacit consent of the Ordinary. For, by canonical erection, in the true sense of the word, is understood the act of ecclesiastical authority that confers upon a pious society an ecclesiastical, permanent existence, so that by this act of authority, the society obtains its own proper and firm status within the diocese; in other words, canonical erection accomplishes in pious societies what it accomplishes in the establishment of benefices, which, by such an act of authority, become subject to ecclesiastical laws and regulations, and enjoy all rights and privileges. These, however, cannot be applied to

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those transient pious gatherings that are instituted to foster piety and to practice certain virtues; for they last only as long as the zeal of the priest who undertakes to care for them.

[*Latin ed. p. 336*]

336 FROM THE HOLY CONGREGATION OF THE HOLY OFFICE OF THE INQUISITION. DECREE. — Thursday, March 15, 1871. In the general congregation of the Holy Roman and Universal Inquisition, held before the Most Eminent and Reverend DD. Cardinals, concerning the examination of a work written in the German language, entitled in Latin: "The Power of the Roman Pontiffs over Princes, Kingdoms, peoples, and individual men, according to their doctrine and actions, in order to properly assess their infallibility," illustrated by Doctor J. Frid. Knight de Schulte, professor of Canon and German Law at the University of Pragensi – Prague, 1871, at F. Tempsky, – and after the vote of the DD. Consultors, the same Most Eminent and Reverend Lords decreed that the aforementioned work should be condemned and prohibited, as it is condemned and prohibited by the present Decree, and ordered that it be inserted into the Index of Prohibited Books, etc. Professor Aemilius Ruchzaber, whose work, "The Heresies of Honorius and the Vatican Decree on Infallibility, etc.," had been prohibited by the Holy Office in April 1871, commendably submitted himself. By Decree of the Holy Office on June 7, 1871, the work entitled "S. Giuseppe patrono della Chiesa universale," Veronae, 1870, by James Morena, a priest of the Congregation of the Mission, was prohibited; who commendably submitted himself. In establishing these, the assent of the local Ordinary is usually sufficient, whether expressed or presumed. Examples of these pious institutions are not lacking in our periodicals, as can be seen specifically in Vol. I, pages 521, 387, and 689. Furthermore, with regard to the Constitution Quaecumque of Clement VIII, those matters which were debated in a certain cause of the Society of Jesus may be recalled, a synopsis of which is found in Vol. H, pages 29 and following. Moreover, in our time, there are several pious Societies which are established for some public good: these usually have nothing in common with the Clementine Constitution.

[*Latin ed. p. 337*]

387 BY THE MOST HOLY PROVIDENCE OF OUR MOST HOLY FATHER, POPE PIUS IX, ENCYCLICAL LETTER To the Venerable Brothers, Patriarchs, Archbishops, Bishops, and Ordinary Authorities of the entire Catholic world, who enjoy grace and communion with the Apostolic See. PIUS, POPE IX. To the Venerable Brothers, greetings and Apostolic Benediction. "Often, Venerable Brothers, during this long pontificate, We have expressed to you how gratefully We have received the demonstrations of devotion and affection which the God of mercy has inspired in you, and how much We trust in the care you have for Us and for this Apostolic See.

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And indeed, when the enemies of God began to invade the civil order, so that, if possible, they might prevail against Jesus Christ and the Church, which is His body and the fullness of Him; you, Venerable Brothers, and the Christian people, never ceased to implore God, to whom the winds and the sea obey, that He might calm the storm, nor did you ever cease to offer the testimonies of your love, and to employ all the means by which We might be relieved in Our tribulation. After We were deprived of this very city, the head of the entire Catholic world, and committed to the will of those who oppressed Us, you, together with many of the faithful of your dioceses, redoubled your prayers, and with repeated declarations, you asserted the sacred rights of religion and justice, which are being violated with incredible audacity. Now, when we have reached the sixth and twentieth year of Our apostolic ministry in the Roman Chair, after the event of Saint Peter, and in a manner entirely unprecedented in the series of Roman Pontiffs, you have given such clear signs of your joy for this great benefit bestowed upon Our humility, and you have so clearly demonstrated the flourishing..."

[*Latin ed. p. 338*]

338 ENCYCLICAL LETTER. We have been deeply moved by the exemplary life, by which the Christian family is everywhere informed, and joining our prayers to yours, we have drawn new strength to more confidently await the complete and absolute triumph of the Church. It has also been most pleasing to Us that everywhere, crowds of suppliants have thronged to the sacred temples, and that throughout the entire world, the faithful have gathered in great numbers, who, together with their own pastors, offered thanks to God for the benefits conferred upon Us, through public prayers and the use of the sacraments, and earnestly implored victory for the Church from the very source. However, our sorrow and anxieties were not only alleviated, but even converted into joy, by the reception of your letters, tributes, and vows, by the frequent arrival of faithful from all sides, among whom many distinguished themselves by their nobility, or by ecclesiastical or civil dignities, but above all by their faith, and who, united in spirit and deed with many citizens of this city and the surrounding provinces, had come even from distant regions, and wished to offer themselves to the dangers and insults to which we are subjected, so that they could testify to their religious sentiments and the sentiments of their fellow citizens towards Us, and they presented to Us petitions in which many hundreds of thousands of faithful, by their own names, vehemently affirmed their confidence in the invasion of Our principality, and gravely demanded its restoration, which is urged by religion, justice, and indeed by civilization itself. On this very occasion, a customary, but also unusually large, influx of the poor and the wealthy alike sought to alleviate Our needs, to which were added numerous, varied, and most noble gifts, a splendid

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tribute of Christian arts and ingenuity, especially suited to the twofold power granted to Us by God, both spiritual and royal; and furthermore, abundant and magnificent supplies of sacred vestments and furnishings, by which we could alleviate the squalor and poverty of so many churches throughout the world. It is certainly a wondrous spectacle of Catholic unity, which clearly demonstrates that the entire Church, though spread throughout the world and composed of diverse peoples with different customs, talents, and pursuits, is informed by the same Spirit of God; and this is all the more wondrous because it is strengthened by the very fury with which impiety attacks and presses it, and by the very cunning with which it seeks to deprive it of all human aid. Therefore, may great and abundant thanks be given to Him, who, while thus glorifying His name, through...

[*Latin ed. p. 339*]

ENCYCLICAL LETTER. §39. This very demonstration of His power and grace elevates afflicted minds to the hope of certain triumph. However, when we consider the gifts received from the Giver of all good things, we are deeply moved, and we feel profound gratitude towards those who, offering themselves as instruments of Divine Providence, have showered us with every kind of assistance, solace, service, devotion, and affection. With our eyes and hands raised to Heaven, we offer to God, through our sons, everything that has been expended for us in the name of the Lord, earnestly beseeching Him that their common prayers, offered for the freedom of this Holy See, for the victory of the Church, and for the peace of the world, may be heard sooner, and that He may generously bestow upon each of them, in Heaven and on earth, that grace which we ourselves are unable to render. We certainly desire to express our heartfelt gratitude to each and every one, and to testify to our most sincere will; but the very abundance of services, deeds, and words offered to us makes it plainly impossible to do so adequately. Therefore, that we may in some way achieve what we desire, we implore you, Venerable Brothers, to whom we entrust the first expression of our sentiments, to announce and make known to your clergy and people. Urge them, moreover, to persevere constantly with you in prayer, with a completely confident spirit; for if the constant prayer of the righteous pierces the clouds and does not cease until the Most High beholds it, and if Christ has promised that He will be with two or three gathered together in His name and will fulfill whatever they ask the Heavenly Father, then, all the more certainly, the entire Church, through its constant and united prayer, will obtain that the Divine Justice may finally see the powers of Hell humbled, the efforts of human wickedness overthrown and destroyed, and peace and justice restored to the earth. As for you, Venerable Brothers, above all, direct your intentions and energies towards this goal, so that, always united more closely, you may present yourselves as a phalanx to the enemies of God, who, though never able to destroy the Church by force,

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now attack it with new methods and vigor; so that you may more easily and effectively resist their incursions and scatter their ranks. These things, which we most fervently desire and earnestly implore, we commend to you, and to the entire Catholic family, with all our heart; and meanwhile, we invoke upon you, and upon your clergy and people, the Apostolic Blessing, a certain sign of our most sincere goodwill and gratitude, and a pledge of Divine favor.

[*Latin ed. p. 340*]

340 ENCYCLICAL LETTER. We impart, with heartfelt concern for the welfare of all, what has been drawn forth from the depths of our breast. "Given at Rome, near St. Peter's, on the fifth day of August, in the feast of St. Mary in Exquiliis, in the year of Our Lord 1871. In the twenty-sixth year of Our Pontificate. PIUS PP. IX. POPE. TO THE CARDINAL. VICAR OF THE EPISCOPAL SEE. "When God, in His most high designs, permitted that the City [Rome] was unjustly occupied, the usurpers declared that Rome was necessary for the integrity of Italy and for the perfect union of all its parts, as if there were not in Italy two other small portions that remain under the ancient dominion, and which we hope will always remain so. But the aim of the great instigators of the revolution was not merely to usurp a city such as Rome, but to destroy the center of Catholicism, and Catholicism itself. To the destruction of this indestructible work of God contribute all the wicked, all the free thinkers, all the sects of the world, who have all sent their contribution."

[*Latin ed. p. 341*]

LETTER. 341. A contingent has arrived in this Metropolis. These small groups coalesce into a single body, and their purpose is to insult and break the images of the Most Holy Virgin and of the Saints; to despise and strike the ministers of the sanctuary; to profane the churches and holy days; to multiply houses of prostitution; to deafen ears with sacrilegious voices; and to bring to the hearts and minds, especially those of the young, the poison of impiety through the reading of certain newspapers that are exceedingly brazen, hypocritical, mendacious, and irreligious. This infernal faction has set itself the task of removing from Rome what it calls religious fanaticism, as a certain Italian philosopher, of unhappy memory, who died suddenly not many years ago, called it. After having gained control of Rome, it now wants to make it incredulous, or rather, a teacher of a so-called tolerant religion, as those desire who have no life before their eyes other than the present, and those who form the idea of God as a God who allows everything to proceed without restraint, and who does not concern Himself much with our affairs. And does the Government, which tolerates all these disorders, also belong to the same faction? It is to be hoped not; for the affirmation would be a source of sorrow concerning the overthrow of the

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throne.

[*Latin ed. p. 342*]

342 LETTER. She has made a somber declaration concerning the fall of the throne. In the meantime, in order to offer some defense against this flood of evils, She, Most Eminent Cardinal, will issue a Circular to the Parish Priests, so that they may warn the parishioners that the reading of certain newspapers, which are especially printed here in Rome, is forbidden to them; and this prohibition must be announced in such a way that those who violate it may know that this violation is not a venial sin, but a grave one. Regarding everything else mentioned above, and which concerns the violation of the laws of God and the Church, it must be said to each Parish Priest: "Argue, beseech, rebuke." Furthermore, let us raise our hands to God, and let us hope that so many attacks against Him, against His Religion, and against Society itself will come to an end, and that we may one day emerge from this labyrinth of evils, so that we may rest securely under the protection of Faith, Morality, and Order. "I bless you from my heart." "June 30, 1871: in commemoration of St. Paul." "Let all men be converted and live, that they may cry out to the Lord: 'Lord, what do you wish me to do?'" PIUS PP. IX.

Meanwhile, in order that some defense may be offered against this flood of evils, you will send a letter to the Parish Priests, Beloved Son, so that they may warn the parishioners that the reading of certain ephemeral publications, which are especially disseminated here in Rome, is forbidden to them; and this prohibition must be announced in such a way that those who violate it may know that this violation is not a venial sin, but a grave sin. But with regard to those things which we have mentioned above, and which concern the violation of the laws of God and the Church, it is necessary to repeat to each Parish Priest: "Argue, beseech, rebuke." Furthermore, we raise our hands to God, and we hope that so many attempts against Him, against His Religion, and indeed against Society itself, will have an end, and that we may one day emerge from this labyrinth of evils, so that under the protection of Faith, Morality, and Order, we may rest securely. We impart to you from the heart our blessing. "June 30, 1871: in commemoration of St. Paul." "Let all men be converted and live, that they may cry out to the Lord: 'Lord, what do you wish me to do?'"

[*Latin ed. p. 343*]

343. CIRCULAR LETTER FROM THE MOST EMINENT VICAR OF THE CITY TO THE PARISH PRIESTS SUBJECT TO HIM, BY WHICH, AT THE ORDER OF THE MOST HOLY FATHER, CERTAIN VULGAR PUBLICATIONS, PRINTED IN ROME, ARE FORBIDDEN TO BE DISTRIBUTED. DOCUMENT. "The profanations and scandals of every kind, which, through the work of the enemies of God and the Church,

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are renewed daily in Rome, have now reached such a point as to degrade the metropolis of the Catholic world, and to place it on a level with any irreligious city. Such is the impiety, that it is seen to progress and triumph more and more within it; such is the contempt for all that is most religious and most sacred, that one finds no other reflection of it than in that abomination of desolation which the Prophet foretold would one day occur in the Holy City of Sion (Daniel IX, 27). Seeing, therefore, the miserable state in which his beloved Rome is, the Holiness of N.S. being deeply moved and grieved, wishing to offer a remedy to this flood of so many evils, sent to us on June 30th a most venerable autograph letter, a copy of which we transmit, in which, after having exposed the sacrilegious excesses which are committed here..."

[*Latin ed. p. 344*]

344. CIRCULAR LETTER. The sacrilegious excesses which are committed here, and the impious purpose which the Sectaries and Free Thinkers set before themselves in promoting and fomenting them, compels Us to urge the zeal and diligence of the Reverend Pastors of this esteemed City, so that they may preserve from perversion the souls entrusted to their care. It is therefore the will of the Holy Father that they, publicly and privately, warn their parishioners not to listen to lying teachers, who, under the false pretext of politics and progress, seek to plunder the most precious treasure which they possess, namely, the Catholic Faith, and to replace it with atheism or religious tolerance; promising them, as the Apostle Peter says, liberty, while themselves they are servants of corruption: *libertatem illis promittentes, cum ipsi servi sint corruptionis* (1 Peter 2:18). The organ of these libertines and unbelievers are, in fact, certain newspapers, which are printed especially here in Rome, which, besides detracting and slandering, have no other task than to turn everything sacred into ridicule, and to deny the truths revealed by God Himself. Indeed, obscene images are painted in them to mock the most august mysteries; articles are composed,

[*Latin ed. p. 345*]

"Circulars, numbered 34 and 35, contain images that parody the most august mysteries; articles are compiled, sometimes with hypocritical guile, sometimes with brazen impudence, hostile to the Church and to its venerable Head; passages from the Sacred Scriptures are cited and misinterpreted, in order to attack the dogmas of the Catholic Faith. And these wicked sheets are read by the Faithful out of curiosity, and are introduced into Christian families, without considering the very grave harm that results to minds and hearts, especially those of the young, who thus drink in the poison of incredulity, perhaps before they have even tasted the milk of religion?"

Therefore, let the Reverends Pastors declare that, by the very law of na-

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ture, Catholics are forbidden to read such newspapers, due to the imminent danger they run of being subverted in their faith; and since this concerns a precept in a serious matter, those who violate it become guilty before God, not of a venial sin, but of a grave fault.

For if the light of right reason teaches that it is unlawful to read impious and obscene writings, so that even the laws of the pagans forbade their publication in Rome, how much more so will it be for Catholics, when the Supreme Pontiff himself forbids it?

With hypocritical guile sometimes, with brazen impudence at other times, hostile to the Church and to its venerable Head; passages from the Sacred Scriptures are uttered and misinterpreted, in order to attack the dogmas of the Catholic Faith. And these impious ephemerides are read by the Faithful out of curiosity, and are admitted into Christian families, without considering the very grave detriment that results to minds and hearts, especially those of the young, who thus drink in the poison of incredulity, perhaps before they have even tasted the milk of religion?

Therefore, let the Reverends Pastors declare that, by the very law of nature, the reading of such newspapers is forbidden to Catholics, because of the imminent danger they face of being deficient in their faith; and since this concerns a precept in a serious matter, those who violate it become guilty before God, not of a venial sin, but of a grave fault. For if the light of right reason teaches that it is unlawful to read impious and obscene writings, so that even the laws of the pagans forbade their publication in Rome; how much more so will it be for Catholics, when the Supreme Pontiff himself forbids it.

[*Latin ed. p. 346*]

346. CIRCULAR LETTER. Concerning obedience? So that no one may allege the excuse of not knowing which newspapers are most brazenly impudent, hypocritical, mendacious, and irreligious, which the Holy Father desires to be proscribed, we note the principal ones (1). Moreover, the zeal of the pastors must be employed not only to ensure that, by removing the faithful from the reading of these pestilent newspapers, their faith remains steadfast, but also that this is accompanied by the purity of morals, even amidst the profanations and scandals of libertines. Remembering the warning given by the Apostle to the pastors of souls, that it is their duty to persuade, to implore, and to rebuke, they should use all the power of the word to preserve the good from the seduction of the wicked, and to bring back those who have strayed to the right path of virtue. Let them remember that whoever thinks that a city can prosper materially, when the fear of God is banished from it, and instead the reign of license and libertinage is established, is greatly deceived. No, sin produces nothing but misery in the people;

(1) *La Libertà*, *Gazzetta del Popolo*, *La Capitale*, *Gazzetta di

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Roma*, *Il Tempo*, *Il Tribuno*, *D. Pirlone figlio*, *Il Diavolo color di Rosa*, *La nuova Roma*, *La Raspa*, *La Vita Nuova*, *La Concordia*, *Il Mefistofele*.

[*Latin ed. p. 347*]

CIRCULAR LETTER. 347 Misery: the profanations of churches and holy days, the insults to the sacred Images and to the Ministers of the Sanctuary, the blasphemies and the impurities, are more than any other thing capable of drawing down divine chastisements upon a city. * Let them remember, finally, that in the Catholic faith alone can society find a remedy for the many evils that afflict it today, and by observing the laws of God and the Church, it can regain Order, Morality, and Peace. » From Our Residence, July 6, 1871. » C. Card. VICARIO.

"The violation of temples and of holy days, the insults to the sacred Images and to the Ministers of the Altar, blasphemies and impurities, more than anything else, are capable of inciting divine vengeance upon the city. Let them remember, finally, that in the Catholic faith alone can society find a remedy for all the evils that afflict it today, and by observing the laws of God and the Church, it can regain Order, Morality, and Peace (1)." From Our Residences, on July 6, 1871. C. Card. VICARIUS.

(1) From the letter of the Most Holy Father, issued by order of the Cardinal Vicar of the City, there is an authentic declaration concerning natural law, which, in the present circumstances, forbids the faithful, under grave guilt, to acquire and read scandalous and notorious ephemerides [publications] that are circulated in the City. The question arises whether this is a mere and simple declaration of natural law, or whether it is also an ecclesiastical precept annexed to natural law. There is indeed a distinction between a simple declaration of natural law and an ecclesiastical precept annexed to natural law. For if it is a simple declaration of natural law, it follows that, if there is no danger of perversion in individuals, and if there is also no cooperation in a wicked cause, the natural precept ceases entirely for such individuals. For the natural precept urges under grave guilt only because of the proximate danger of grave perversion; and this guilt becomes even greater because of cooperation, even if slight, in the most wicked cause: this cooperation consists in buying such ephemerides and praising them with words, thereby promoting them unwittingly. Therefore, if both these causes of guilt cease, then the guilt itself ceases. These things are true, not only for those who belong to the Roman diocese, but for all the faithful: since all are bound by a grave guilt from the natural precept to avert from themselves the proximate danger of grave perversion, and to avoid cooperation in the most wicked cause: and if these cease, the natural

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precept ceases everywhere.

[*Latin ed. p. 348*]

348 FROM S, THE CONGREGATION OF SACRED RITES. GENERAL DECREE CONCERNING THE PROCESS, WHETHER ORDINARY OR OF APOSTOLIC AUTHORITY, TO BE CONDUCTED WITH DUE RITE IN CAUSES OF SERVANTS OF GOD. "The Sacred Congregation, having observed that Processes, whether Ordinary or of Apostolic authority, for the Beatification and Canonization of Servants of God, conducted outside the City, sometimes exhibit a serious irregularity, namely, that to those persons who hold a certain office in conducting the process, after they have begun to perform that office, permission is granted to relinquish that office, while the Ordinary or even the Apostolic inquiry of the same cause continues, so that they may assume and exercise a different office of a different nature. This change of offices, since it appears to be far from consonant with the rules of law, the same Sacred Congregation, at Ordinary meetings held in these days at the Vatican, in order to remove this abuse and to eliminate any suspicion, however slight, in a matter of such grave importance, deemed it advisable, if it pleases the Most Holy Father, to prohibit it. On the other hand, if we are speaking of an ecclesiastical precept annexed to natural law, no faithful within the Roman diocese, or among the nations, can read such publications, although they themselves are not subject to the danger of perversion, nor are they cooperating in the most wicked cause. Outside the Roman diocese, only the natural precept remains. It seems that this question should be answered by stating that natural law is joined with the ecclesiastical precept, so that no one who resides in the Roman diocese can read such publications without grave fault, although there is no danger of perversion for him, unless he obtains a dispensation from the precept from the authority. The reason is that the Most Holy Father ordered the Vicar of the City to announce the prohibition, so that all would understand indiscriminately that violating this prohibition is a grave fault. This was repeated by the Most Holy Vicar, who, declaring the danger of grave perversion, recalled the pontifical prohibition, and at the same time indicated the most pernicious publications already notorious to the people, and which, according to the mind of the Most Holy Father, should be prohibited (which are usually nothing but scandalous pamphlets concerning sacred things and ecclesiastical persons), and by indicating these, those who read them have nothing with which to excuse themselves from the pontifical prohibition. This example can be repeated in any diocese by the local Ordinaries, where similar dangers of perversion exist. This prohibition and condemnation has already had a not insignificant effect in Rome."

[*Latin ed. p. 349*]

DECREE GENERAL. 349. Henceforth, in establishing any processes,

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whether ordinary or apostolic, pertaining to the cause of the same Servant of God, the same person shall not be able to exercise different offices, not even successively, so that, after having completed and been dismissed from one office, he may not undertake another, under penalty of nullity. December 10, 1870. "Having made a faithful report to His Most Holy Lord Pope Pius IX regarding the foregoing, His Holiness approved and confirmed the aforementioned decision of the Sacred Congregation, and ordered it to be promulgated by this present general decree, to be observed by all. Notwithstanding any contrary provisions whatsoever." December 22 of the same month and year (1). "C. Episc. Ostien. et Velitern. Cardinal PATRIZI, S. R. C., Prefect. In place of, Rev. D. Bartolini, S. R. C., Secretary." (1) In the causes of the Servants of God, the utmost care must be taken, that is, all the aforementioned formalities must be observed in the process, so that any fraud or deceit may be kept far away, and the truth may shine forth without any deception. This would not occur, for example, if the one who performs the duties of an Actuary, after being dismissed from that office, were subsequently to undertake the duties of a Promoter of the Faith. The reason is clear; for such judgments must be carried out in a contradictory manner: the Promoter, on one side, argues for the happy outcome of the cause, the Promoter of the Faith, on the other, raises objections and opposes; the Judges, with equal impartiality, consider the arguments and objections: if, therefore, the Actuary, who, by virtue of his duty to record in the proceedings, already knows all things, both those that favor the cause and those that may hinder it, were to use this knowledge when undertaking the duties of a Promoter, to favor his cause, for example, by rejecting witnesses whom he knows would not answer favorably to certain questions, etc., much more so if, after the Promoter, a Judge were to emerge in the same cause. Similar things can be said about the exchange of other offices. These, if they are contrary to the equity of the sacred canons, can. 3, q. 4, c. i, must be entirely avoided in any cause that is to be conducted in a contradictory manner. It does not matter whether this exchange of offices occurs after an ordinary process, so that the one who, having completed his duties with ordinary authority, for example, as a Promoter, in an ordinary process, subsequently, in a process initiated with apostolic authority, performs the duties of a Judge. For the apostolic and ordinary processes are two parts of one and the same inquiry. This is so true that, for this reason, a doubt regarding the validity of the ordinary process is presented to the Sacred Congregation in these causes, so that, if it is deemed to have been valid, the testimonies received in it may be treated with the same validity as those received in the apostolic process. From this it follows that the ordinary process, after its validity has been recognized, must, with all strictness of law, be incorporated into the apostolic process, so that it may form one body. The aforementioned decree gave the Vivariensis cause the last opportunity, whose decree is

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given below.

[*Latin ed. p. 350*]

350. QUESTION. "In the Solemn Mass, before the faithful are presented to the Most Holy Sacrament, the Memorial of the Sacrament must be recited, and during the time of the Vatican Ecumenical Council, this same Mass must also include the Prayer for the Holy Spirit." Since a serious controversy has arisen among the liturgists regarding these commemorations, the following is asked:

I. Should the memorial concerning the Sacrament be recited before, or postponed to after, the Prayer for the Holy Spirit?

II. On feasts of the first class, should three prayers, namely, the prayer "for the day," the prayer "of the Sacrament," and the prayer "for the Holy Spirit," be recited under a single conclusion, or rather, should two Collects, one "of the Sacrament" and one "for the Holy Spirit," be recited under different conclusions?

The Sacred Congregation of Rites, after mature and careful deliberation, and after hearing the written opinion of one of the Masters of the Sacred Liturgical Ceremonies, decided to respond as follows:

To I. Affirmative to the first part, negative to the second.

To II. In this case, the prayer of the Most Holy Sacrament should be joined with the prayer of the feast; the prayer for the Holy Spirit should be recited under a distinct conclusion.

And thus it was written and it was ordered to be observed on April 22, 1871 (1).

C. The Most Reverend Bishop of Ostia and Velletri, Cardinal PATRIZI, S. R. C., Prefect.

D. Bartolini, S. R. C., Secretary.

(1) These doubts, presented with due deference to Your Lordships, appear to have been raised, or to be suitable for response, in order that the answers may be given for execution after the Vatican Council. As is apparent from the Apostolic Letters which I have cited on page 65. On these matters, there exists a Decree of the Sacred Congregation of Rites in Vol. V, page 660, and there are also some Responses of the Penitentiary in Vol. V, page 28. Since the Vatican Council is suspended, all the prescribed prayers are suspended by the very fact. From the Most Reverend...

[*Latin ed. p. 351*]

351 CAMBRAY. "The parish priest of the place commonly called Hautmont, in the Archdiocese of Cambray, presented a case to the Congregation of Sacred Rites, stating that the titular saint of the aforementioned parish church is Saint Marcellus, the Pope and Martyr, whose feast day is celebrated on the sixteenth of January. Furthermore, on that same day,

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the feast of Saint Furseus, the Confessor, is also assigned in the calendar of the aforementioned Archdiocese. Therefore, the feast day for the aforementioned parish church must be permanently transferred to another day. It appears that the first free day would be the nineteenth of the same month of January, but on that day, the feast of Saint Canute, the Martyr, which is a semi-double feast, is permanently observed in the same parish church, beginning on a day within the Octave of Saint Marcellus, the titular. Since there are other reasons to doubt whether a feast day assigned to such a day can permanently be transferred, as in this case, after earnest prayers, the solution to the doubt was obtained from the aforementioned Sacred Congregation. " And the Sacred Congregation, after reviewing the decree in Nocera, ratified it on March 11, 1871, stating: "The feast of Saint Furseus, the Confessor, in the case in question, cannot be celebrated on the nineteenth of January; that day must remain free, so that either the feast that was accidentally transferred there may be restored, if it exists, or a feast may be celebrated on a day within the Octave of Saint Marcellus, permanently omitting the semi-double Office of Saint Canute. The feast of Saint Furseus, however, must be permanently transferred to the first subsequent free day." And so it was written and it was ordered to be observed on May 9, 1871. C. Episc. Ostien. et Velitern. Cardinal PATRIZI, S. R. C., Prefect. In place of the signatures, Dominic Bartolini, S. R. C., Secretary.

[*Latin ed. p. 352*]

332 OF THE SOCIETY OF PRIESTS OF THE MOST HOLY SACRAMENT. The Superior of the Society of Priests of the Most Holy Sacrament humbly requested a solution to the following questions from the Congregation of Sacred Rites: I. Concerning the observance of Second Vespers of the Feast of the Seven Sorrows of the Blessed Virgin Mary, which coincide with First Vespers of the Feast of Saint Joseph on March 18th, whether the hymn should be concluded with the Doxology of the Blessed Virgin Mary. II. "In many places, liturgical books, such as Breviaries and Missals, are reprinted according to certain usages concerning punctuation, the spelling of words, and with an observance, as they say, of more accurate grammatical rules, and with a comparison made with the best editions of the Holy Fathers, or even of the Sacred Scriptures; and furthermore, hymns, chapters, and other similar texts are transferred from place to place, for the convenience of the users, as they assert: can these liturgical books be used with a safe conscience, when they do not appear sufficiently conformed to the authentic Roman editions? (1)?" III. "When a church is to be dedicated, not under the name of any Saint, but under the name of a mystery, such as the Holy Cross, the Most Holy Sacrament, should the name of this mystery be expressed in place of the name of the Saint, which is to be recited in the prayers of the laying of the first stone and of the blessing or consecration of this church?" The Sacred Congregation,

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after mature deliberation and having heard the opinion of another of the Masters of the Sacred Ceremonies, decided to respond as follows: (1) In my opinion, the one who formulated this question of doubt should have said, instead of asking whether these liturgical books can be used with a safe conscience, whether it is a meritorious patience that is necessary in the use of liturgical books, due to the arbitrary changes that editors make, who, spending countless hours in preparing liturgical books, create great annoyance for those who must read and have these books constantly at hand; who, no longer finding the common, prescribed form to which they were accustomed, are always forced to learn the use of the books according to the will of the editors. Such books are not purchased for the sake of the users, but are left in use and for the convenience of the editors.

[*Latin ed. p. 353*]

SOCIETY OF THE MOST HOLY SACRAMENT. 333 Regarding I. The rubrics state that if, during Vespers, a commemoration of the Immaculate Conception of the Virgin Mary is made, the hymn at Compline should conclude with "Jesus, glory be to you, who were born of the Virgin." Regarding II. In the edition of liturgical books, the laws prescribed in the Constitutions and Bulls of the Supreme Pontiffs must be strictly observed. Regarding III. In the prayer that begins "O Lord God, who, although heaven and earth..." without mentioning the name of any Saint or Saint, it should be said "through the intercession of the Blessed Virgin Mary, ever virgin, and of all the Saints, etc." In the Blessing of the cornerstone, in the prayer "O Holy Father, Almighty and Eternal God, etc.," it should be said "in honor of the Holy Cross, in honor of the Mystery of the Most Holy Sacrament." And thus it was written and ordered to be observed on this day, March H, 1871. C. Ep. Ostia and Velletri. Cardinal PATRIZI, S.R.C. Prefect. In place of the Seal, D. Bartolini, S.R.C. Secretary. OFFICE AND PROPER MASS FOR THE CONCESSION AND APPROBATION OF THE ISLAND OF SARDINIA, IN HONOR OF THE BLESSED VIRGIN MARY, NOW CALLED "A BONO AERE." Before I present the Decree of the Holy Congregation, I will indicate some things that show how such cases are usually handled before a favorable Rescript or Decree of concession is issued. There precedes it, namely, a petition and an investigation of the cause, which is written by the Procurator and printed, supported by documents, and reasons are presented that may move the Holy Congregation to grant the favor. BRIEF INFORMATION. On the slope that overlooks Calarim, on the island of Sardinia, and is now called "A Bono Aere," there rises an ancient sanctuary erected in honor of the Blessed Virgin Mary, attached to a monastery of the Order of Regular Canons of the Mercy. According to pious and constant tradition, the icon of the Mother of God, carved from wood, depicting the infant Jesus in her arms, was transferred there in the year 1370 in a truly

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miraculous manner. Acts, volume -, page LXY11I. 23.

[*Latin ed. p. 354*]

354. THE ISLAND OF SARDINIA. The veneration of this place has been celebrated for five centuries, to the extent that the faithful, not only from the island itself, but also from foreign nations, have frequently flocked there: some to diligently honor the Blessed Virgin Mary, others to dedicate themselves to exercises of all piety, still others to bring offerings and votive tablets, with which the walls of the temple were almost entirely covered, to testify to the benefits received and to fulfill their vows. Princes and Bishops from Calarim arrived there, scarcely having disembarked from their ships, and immediately sought out the shrine; captives freed from servitude and sailors saved from shipwreck hastened there. There, the faithful found help in their misfortunes, consolation in their distress, forgiveness for sinners, and healing for the sick, and pregnant women experienced a blessed delivery. Mothers were accustomed to present their infants to the powerful Virgin for her protection; this was also done by Queen Maria Theresa, who dedicated her daughter, Maria Christina, already declared venerable by the authority of the Holy See, from her very infancy to the Mother of God (1). This illustrious image of the Blessed Virgin was duly adorned with a golden crown by a decree of the Chapter of the Vatican on April 24, 1870. The aforementioned facts were confirmed by the Orator with numerous documents, many of which had already been published by Father Francis Salis of the Order of the Most Holy Virgin of Mercy in a book entitled *De Bonaria: Statua miracolosa di Maria Vergine*, historical notes with notes and documents, Calarim, 1868. Regarding the reasons for obtaining the concession of a proper Mass and Office for the entire island of Sardinia, the Orator presented those reasons which spontaneously arose from the aforementioned information, namely, the solemnity of the feast with which that image is customarily celebrated, the pious devotion of the people, the renowned benefits and the glory of miracles, together with the petitions of the sacred prelates, along with the wishes of the clergy and the people. Having presented all these things through the Orator, the plan for the proper Office and Mass to be approved was then presented, and the Orator spoke as follows:

(1) The history of the Servants of God teaches that pious mothers who consecrate their children, whether those carried in the womb or those brought into the light, are frequently heard, so that many are found inscribed in the Album Sanctorum, who, after God's grace, must practice heroic virtues, either through the mother or through both parents, who have dedicated them to God or to the Mother of God in a special way. Hence, it is clear how useful it would be for parish priests or confessors to

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suggest these things, especially to mothers who are pregnant.

[*Latin ed. p. 355*]

OF THE ISLAND OF SARDINIA. 855 "It is now fitting to add a few things concerning the structure of the Office and the Mass. It will be immediately apparent that this has been carefully prepared according to the model of ecclesiastical prayers, and that what is read therein, whether from the Roman Breviary, or from the writings of the Saints, or from the books of Scripture, has been carefully selected. The hymn has already been submitted to the judgment of the Hymnographer of the Holy Congregation, has been revised and approved by him, and is presented here. The historical readings have been arranged according to the doctrine transmitted by Benedict XIV. And indeed, these are the wise admonitions of that most prudent Pontiff (op. de Canoniz. 1. 4 p. 2 c. 10 n. 6 et 7): when monuments of this kind (namely, processes completed by the Holy See, or Papal Bulls, or the writings of the Saints) are lacking, readings should at least be taken from approved historians and, as far as possible, from contemporary ones." Furthermore, it continues: "Thus far, what has been presented should be understood and explained with moderation, and as it is said, with a grain of salt; for it may happen that, when contemporary historians are lacking, other monuments of unbroken tradition may nevertheless be present, which can be a place for the addition of accounts of events in readings proper to certain particular churches, but not for the entire Church, and sometimes even not for the entire Church." But what is said about the Blessed Virgin Mary, now called Bonaria, in the proper readings, we have carefully derived and fully verified with so many documents and monuments cited in this our work, that it may deserve the faith of any prudent person." Thus, the Orator. Having presented the cause to the Holy Congregation of Rites, the following Decree was issued: "It was the desire of the faithful of the entire island of Sardinia that a special feast be instituted in honor of the Blessed Virgin Mary under the title of Bonaria, whose image is celebrated with singular devotion by the people and with the glory of graces and miracles, near the city of Calaritan, the principal city of that island, in the church adjacent to the monastery of the Brothers of the Order of Mercy, located on the slope that overlooks the city, and called Bonaria. Therefore, in order to satisfy their desires, the Most Reverend Lord, Canon John Mary Filia, Vicar Capitular of the Archdiocesan Church of Calaritan, with that Archiepiscopal See vacant, deemed it his duty to humbly request the Most Holy Pope Pius IX, that in honor of the Blessed Virgin Mary under the aforementioned title, both the secular and regular clergy..."

[*Latin ed. p. 356*]

356. ISLAND OF SARDINIA. It is fitting that a particular feast day be celebrated throughout the entire Island of Sardinia, under the double rite of

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the first class, on the 24th of April, which day is the anniversary both of the wondrous arrival of the Image in the island, and of the solemn Coronation of the same Image in the year 1870, by the Chapter of Vatican. Furthermore, the proper Office and Mass, which were presented by the aforementioned petitioner for appropriate approval, are to be added. When such petitions were presented today to the Congregation of Sacred Rites at Vatican, by the Most Eminent and Reverend Cardinal Hannibal Capalti, appointed for this cause, the Eminent and Reverend Fathers presiding over the Sacred Rites deemed it proper to write to: the Most Eminent Cardinal, together with the Promoter of the Faith. "After these matters were reviewed by the aforementioned Cardinal, together with the Reverend Father Peter Minetti, Promoter of the Holy Faith, the Sacred Congregation, as appears in the preceding document, approved: and granted permission that the same may be recited and duly celebrated under the double rite of the first class, with the Octave, by the Secular and Regular clergy of the entire Island of Sardinia, on the 24th of April, observing the rubrics. On the 22nd of April, 1871." C. Ep. Ostien. et Velitern. Cardinal PATRIZI, S. R. C. Prefect. To the Most Reverend Monsignor Bartolini, S. R. C. Secretary. VIVARIEN. Concerning the Beatification and Canonization of the Venerable Servant of God, Sister Mary Rivier, Foundress of the Congregation of the Presentation of the Blessed Virgin Mary. "In the cause of beatification and canonization of the aforementioned Venerable Servant of God, Mary Rivier, when it was necessary to proceed in the Ordinary Congregation of Sacred Rites concerning the validity of all the proceedings in this cause, the Illustrious Knight Raphael Ferrucci, Postulator of this cause, obtained that the following question be proposed in the Ordinary Congregations of Sacred Rites held at Vatican, to the Most Eminent and Reverend Cardinal John Baptist Pitra, appointed for this cause."

[*Latin ed. p. 357*]

VIVIERS. On this, the 357th day: Does it appear that the validity of both Apostolic and Ordinary processes depends on whether the witnesses have been duly and properly examined, and whether the evidence presented has been legitimately obtained in the case and to the effect of the matter under consideration? Furthermore, the Most Reverend Fathers entrusted with the preservation of the sacred rites, after a thorough examination of all matters, and after hearing the Reverend Father D. Peter Minetti, Promoter of the Holy Office, deemed it necessary to write: Having considered all matters pertaining to the case in question, and finding them affirmative, it is to be consulted with the Most Holy [Father], so that a General Decree may be issued, so that in the future, the same person may not perform duties in both Ordinary and Apostolic processes, nor successively in different offices, under penalty of nullity. December 10, 1870. The aforementioned facts were faithfully reported to the Most Holy Lord, our Pope Pius IX, by

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the undersigned Secretary of the Congregation of Sacred Rites. His Holiness approved and confirmed the judgment of the Sacred Congregation, and ordered that the General Decree be prepared and promulgated (1). On the 22nd of the same month and year, Cardinal PATRIZI, Prefect of the Sacred Congregation, and D. Bartolini, Secretary of the Sacred Congregation, signed. (1) This Decree is explained above on page 318. In this matter, certain defects have become apparent. This should not be surprising; indeed, considering the conditions in which ecclesiastical courts in France find themselves, it is to be commended that the court of Viviers has not hesitated to undertake and pursue difficult and lengthy processes, as are required in the causes of Servants of God. Many ecclesiastical courts are in a situation in which it is difficult to conduct solemn and thorough processes, as was formerly the custom, either because of the vicissitudes of civil judges, or because of a lack of personnel, who are either absent or not present in this province, or even because of a neglect of care in restoring matters, as far as possible, according to the norms of the sacred canons. There is no ecclesiastical court in which the concept corresponding to the word "process" seems to be completely forgotten. For example, they call a process the prudent opinions that the court itself seeks in a particular matter; and these opinions take the place of witnesses and testimonies, since they are nothing other than the opinion of the court or the Bishop. A court that is able to properly conduct processes in the causes of Servants of God is suitable for conducting any process; for if one excepts these causes, and criminal causes (although these are also conducted as far as they can be), and some other causes according to Pontifical constitutions, the rest can be handled by summary judgment, provided that only the rules and conditions that natural law or equity suggest for the discovery of truth are observed, so that the rights of either the plaintiff or the accused are not violated. See Appendix 11, page 42, and what I have cited there.

[*Latin ed. p. 358*]

358. VINDOBONA. Concerning the Beatification and Canonization of the Venerable Servant of God, Clement Maria Hofbauer, Priest, of the Congregation of the Most Holy Redeemer, and a distinguished propagator of the same Congregation beyond the Mountains.

"In the cause of the Beatification and Canonization of the aforementioned Venerable Servant of God, Clement Maria Hofbauer, since it was necessary to proceed in the Ordinary Congregation of Sacred Rites concerning the validity of all processes undertaken in this cause, at the request of the Reverend Father Rrixii Queloz, General Procurator of the aforementioned Congregation and Postulator of the cause, His Eminence and Reverend Cardinal Aloysius Bilio, Promoter of the cause, at the Ordinary Congregations of Sacred Rites held today in Vatican, proposed the following question, namely: Whether it is established that the processes

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undertaken, both by Apostolic and Ordinary authority, are valid; whether the witnesses have been duly and properly examined, and whether the documents produced have been legitimately obtained and are relevant to the case and to the purpose for which they are presented? Furthermore, the Reverend Fathers entrusted with the safeguarding of the sacred rites, after a careful examination of all matters, and after hearing the Reverend Father Dominic Minetti, Promoter of the Holy Faith, judged it fitting to respond: Affirmative. December 10, 1870."

"These matters, having been faithfully reported to the Most Holy Lord, our Pope Pius IX, by the undersigned Secretary of the Congregation of Sacred Rites, His Holiness deigned to ratify and confirm the judgment of the Sacred Congregation. December 15, of the same month and year (1)."

C. Ep. Ostien. et Veliternen.

CARD. PATRIZI S. R. C.

Prefect.

Dominicus Rartolini S. R. C.

Secretary.

(1) I have recounted this cause from its beginning in Volume II, page 465; its prosecution in Volume III, page 266, and in Volume IV, page 159: I shall write about this fourth decree in the present volume.

[*Latin ed. p. 359*]

359. In Naples, concerning the Beatification and Canonization of the Venerable Servant of God, Sister Maria Crucifixa a Vulneribus Domini Nostri Iesu Christi, a Professed Tertiary of the Order of Friars Minor of Saint Francis of Assisi, of the stricter Observance, of the Neapolitan Province.

"In the cause of Beatification and Canonization of the aforementioned Venerable Servant of God, Maria Crucifixa a Vulneribus Domini Nostri Iesu Christi, when it was necessary to proceed in the Ordinary Congregation of Sacred Rites regarding the validity of all the processes undertaken in this cause, at the request of the Reverend Father Aloysius Ricci, Canon of the Patriarchal Basilica of the Lateran and Postulator of this cause, Our Eminence and Reverend Cardinal Anthony Mary Panebianco, Promoter of this cause, proposed the following question in the Ordinary Congregations of Sacred Rites held today in the Vatican: Whether it is established by both Apostolic and Ordinary authority that the processes undertaken are valid, and whether the witnesses have not been duly and properly examined, and whether the testimonies produced have been legitimately obtained and are effective in the case and to the effect of what is being considered? Furthermore, the Most Reverend Fathers entrusted with the safeguarding of the Sacred Rites, after a careful examination of all matters, and after

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hearing the Reverend Father Peter Minetti, Promoter of the Holy Office, judged it necessary to respond: Affirmative. December 10, 1870. The aforementioned matters concerning the above were faithfully reported to the Most Holy Pope Pius IX by the undersigned Secretary of Sacred Rites, and His Holiness deigned to ratify and confirm the judgment of the Sacred Congregation. December 15, of the same month and year."

C. Ep. Ostien. et Velitern.

Cardinal PATRIZI

S. R. C.

Prefect.

^ Sign.

D. Bartolini

S. B. C.

Secretary.

[*Latin ed. p. 360*]

360 ROME, OR LUCANIA. Concerning the Beatification and Canonization of the Venerable Servant of God, John Baptist Cioni, Priest, of the Congregation of Clerics Regular of the Mother of God, and the first member of the aforementioned Congregation, founded by the Blessed John Leonard.

"On the third of the Ides of March, in the year 1869, Our Most Holy Lord Pope Pius IX, with paternal kindness, decreed that an Ordinary process should be conducted in the Congregation of Sacred Rites, without the intervention or vote of Consultors, concerning the fame of the sanctity of life, virtues, and miracles, in general, of the aforementioned Venerable Servant of God, John Baptist Cioni, at the urging of the Reverend Father Aloysius Narcissus Biagioni, Promoter of the Cause. The Eminent and Reverend Cardinal Aloysius Billio, Promoter of this Cause, proposed the following question for discussion at the Ordinary Meetings of the Sacred Rites held at the Vatican on the designated day: Whether it is established that the process conducted in Lucania, concerning the fame of sanctity of life, virtues, and miracles in general of the same Venerable Servant of God, is valid and relevant in this case and to the effect of what is being considered? The Eminent and Reverend Fathers entrusted with the preservation of the Sacred Rites, after mature deliberation, and having heard the voice and written opinion of the Reverend Father Peter Minetti, Promoter of the Holy Faith, judged that an affirmative response should be given. On April 22, 1871."

"These matters, faithfully reported by the undersigned Secretary to Our Most Holy Lord Pope Pius IX, were ratified and confirmed by His Holiness. On the 27th day of the same month and year."

C. Ep. Ostien. et Velitern. CARDINAL PATRIZI, S. R. C.

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Prefect.

D. Bartolini, S. B. C.

Secretary.

[*Latin ed. p. 361*]

361. Of the Beatification and Canonization of the Servant of God, Father Aloysius of the Most Holy Cross, a Priest of the Order of Friars Minor Observant of stricter observance, of the Province of St. Peter of Alcantara in Naples.

"On the eve of the Ides of February, 1857, when the Most Holy Pope Pius IX benignly ordered that the matter of the signing of the Commission for the Introduction of the Cause of the Servant of God, Aloysius of the Most Holy Cross, aforementioned, be considered in the Ordinary Congregation of Sacred Rites, without the intervention or vote of the Consultors, although less than ten years had elapsed since the presentation of the Ordinary Process in the Acts of the Congregation of Sacred Rites, nor had his own writings been investigated and examined, His Eminence and Reverend Cardinal Alexander Barnabo, Promoter of this Cause, at the urging of the Reverend Father Josue of the Sacred Heart, General Definitor of the aforementioned Order and Postulator of this Cause, having considered the Postulatory Letters shining with Princely Royal Dignity, as well as those of many Cardinals of the Holy Roman Church, and other men distinguished by ecclesiastical or civil dignity, in the Ordinary Congregations of Sacred Rites held today in the Vatican, proposed the following question to be discussed: Whether the Commission for the Introduction of this Cause should be signed, in this case and for the purpose in question? And the Sacred Congregation itself, having carefully considered all matters, and having heard the voice and written opinion of the Reverend Father Peter Minetti, Promoter of the Holy Office, decided to respond: Affirmative, or that the Commission should be signed, if it pleases the Most Holy [Pope]. On February 1871.

"Afterward, a faithful report of the foregoing was made to the Most Holy Pope Pius IX by the undersigned Secretary. His Holiness approved and confirmed the judgment of the Sacred Congregation, and with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God, Aloysius of the Most Holy Cross, aforementioned. On the 9th day of the same month and year."

C. Ep. Ostien. et Velitern. CARDINAL PATRIZIS.

R. C. Praef.

D. Bartolini, S. R. C., Secretary.

[*Latin ed. p. 362*]

862 In Naples or Rome: Concerning the Beatification and Canonization

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of the Venerable Servant of God, Father John Baptist of Burgundy, a Priest of the Order of Friars Minor of the Strict Observance of Saint Francis, from the Sacred Retreat of Saint Bonaventure in the City of Rome, the following was proposed by the Most Reverend Father Francis of Rome, a Priest of the Order, and General Postulator for the Causes of Beatification and Canonization of the Servants of God of the aforementioned Order, under the signature of the Cardinal Prefect of the Congregation of Sacred Rites, and Promoter of this Cause, at the Ordinary Meetings of the Sacred Rites held this day in the Vatican: "Whether the opinion of Jude, given by the Most Eminent and Reverend Cardinal Archbishop of Naples, delegated to examine the matter concerning the aforementioned Venerable Servant of God, or concerning the decrees of His Holiness Pope Urban VIII, should be confirmed in this case, and to what effect? " Furthermore, the Most Reverend Fathers entrusted with the safeguarding of the Sacred Rites, after careful consideration, and having heard the voice and writings of the Reverend Father Peter Minetti, Promoter of the Holy Faith, judged it fitting to respond affirmatively, that the opinion should be confirmed. December 10, 1870. " Subsequently, a faithful report of the above was made to His Most Holy Lord Pope Pius IX by the undersigned Secretary of the Congregation of Sacred Rites, and His Holiness deigned to declare the Decree of the Sacred Congregation to be ratified and confirmed in all respects. December 15, of the same month and year (1). "

C. Ep. Ostien. et Velitern. Cardinal PATRIZI, S. R. C., Prefect.

Loco, Sign. D. Bartolini, S. R. C., Secretary.

(1) I have presented the Decree concerning the introduction of this cause in Volume IV, page 554, and a summary of the cause therein, page 604. Regarding the process, concerning which the present Decree regarding the lack of cult is issued, nothing needs to be noted; since nothing of importance has been observed by the Promoter of the Holy Faith, which could in any way signify the public cult of the Venerable Servant of God.

[*Latin ed. p. 363*]

363 ROME OR TURIN. Concerning the Beatification and Canonization of the Servant of God, Father Bartholomew Menochio, of the Order of the Eremites of Saint Augustine, Bishop of Porphyreon, to the Apostolic Sacred Office: "On the Kalends of January in the year 1853, when the Most Holy Pope Pius IX graciously permitted that the matter of the signed introduction of the Cause of the Servant of God, Father Bartholomew Menochio, aforementioned, be considered in an Ordinary Congregation of Sacred Rites without the intervention and vote of the Consultors, although his writings had not yet been inquired into nor examined, the undersigned Cardinal, Prefect of the aforementioned Sacred Congregation and Relator of the Cause, at the request of the Reverend Father, Father Nicholas Primavera, a Priest, Professed, and General Postulator of the Causes of Beati-

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fication and Canonization of the Order of the Eremites of Saint Augustine, having considered the postulatory letters of several Cardinals of the Holy Roman Church and other men of illustrious ecclesiastical dignity, in the Ordinary Congregations of the Sacred Rites Congregation convened today at the Vatican, proposed the following question for discussion: Whether the commission for the introduction of this Cause should be signed, in this case and for the purpose in question? And the Sacred Congregation itself, after mature deliberation, and having heard the voice and written opinion of the Reverend Father, Doctor Peter Minetti, Promoter of the Holy Faith, decided to respond: Affirmative, that is to say, the commission should be signed, if it pleases the Most Holy [Pope]." "On April 22, 1871." "Afterwards, a report on the aforementioned matters was made to the Most Holy Pope Pius IX by the undersigned Secretary. His Holiness approved and confirmed the judgment of the Sacred Congregation, and with his own hand signed the commission for the introduction of the Cause of the Venerable Servant of God, Bartholomew Menochio, aforementioned. On the 27th day of the same month and year." C. Ep. Ostien. et Velitern. Cardinal PATRIZI, S. R. C., Prefect. In place of the Seal, D. Bartolini, S. R. C., Secretary.

[*Latin ed. p. 364*]

364 RHEGINA. Concerning the Beatification and Canonization of the Servant of God, Father Iesualdo of Rhegina, a professed priest of the Order of Friars Minor of Saint Francis, Capuchin. "On the fourth day before the Kalends of December, in the year 1867, when the Most Holy Pope Pius IX, with paternal kindness, permitted that the matter of the signature of the Commission for the Introduction of the Cause of the aforementioned Servant of God, Father Iesualdo of Rhegina, be considered in an Ordinary Congregation of the Sacred Rites, without the intervention and vote of the Consultors, even though less than ten years had elapsed since the presentation of the Ordinary Process in the Acts of the Congregation of Sacred Rites, and the writings of the same Servant of God had not been thoroughly investigated and examined, the Most Eminent Cardinal Anthony Mary Panebianco, Promoter of this Cause, at the request of the Reverend Father Francis Amedeus of Orvieto, a professed priest and General Postulator for the Causes of Beatification and Canonization of the Servants of God of the Order of Friars Minor of Saint Francis, Capuchin, having considered the Postulatory Letters of several distinguished men, especially of ecclesiastical dignity, and having convened the Ordinary Congregations of Sacred Rites today at the Vatican, proposed the following question for discussion: Whether the Commission for the Introduction of this Cause should be signed, in this case and for the purpose in question? And the Sacred Congregation itself, after mature deliberation and having heard the voice and writings of the Reverend Father Peter Minetti, Promoter of the Holy Faith, decided to respond: Affirmative, that is to say, that the Com-

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mission should be signed, if it pleases the Most Holy [Pope]. On April 22, 1871." After the aforementioned matters, a report was made to the Most Holy Pope Pius IX by the undersigned Secretary. His Holiness approved and confirmed the judgment of the Sacred Congregation, and with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God, Father Iesualdo of Rhegina, aforementioned. On the 27th day of the same month and year." C. Ep. Ostien. et Velitern. Cardinal PATRIZI, S. R. C. Prefect. In place of the Seal, D. Bartolini, S. R. C. Secretary.

[*Latin ed. p. 365*]

365 TOURS. The Cult of the Servant of God, Joan Maria de Maillé, known as Blessed, has been practiced from time immemorial. "In the Ordinary Congregations of the Sacred Rites, held on this day, through the Most Eminent and Reverend Cardinal Aloysius Billio, who presides over this Cause, the following question was proposed: Whether the judgment of the Delegated Judges, concerning the Cult practiced from time immemorial by the Servant of God, Joan Maria de Maillé, aforementioned, or concerning the exception from the Decrees of the Most Holy Pope Urban VIII, should be confirmed in the case and for the purpose in question. The Most Eminent and Reverend Fathers, entrusted with safeguarding the Sacred Rites, after mature deliberation and having heard the voice and written opinion of the Reverend Father Peter Minetti, Promoter of the Holy Faith, judged it fitting to respond affirmatively on April 22, 1871." These matters, faithfully reported to the Most Holy Pope Pius IX by the undersigned Secretary, were approved and confirmed by His Holiness. On the 27th of the same month and year." C. Episc. Ostien. et Veiitern. CARD. PATRIZI S. R. C. Praef. Dominicus Bartolini S. B. C. Secretarius. MAIORICA. Concerning the Canonization of the Blessed Alphonsus Rodriguez, temporary Coadjutor of the Society of Jesus. Regarding the question: "Whether it is established that the Apostolic Process, constructed in the Archdiocesis of Mechlin, concerning the miracle which occurred after the veneration granted to the aforementioned Blessed, is valid; whether the witnesses were duly and properly examined, and whether the testimonies were legitimately obtained in the case and for the purpose in question."

[*Latin ed. p. 366*]

366 MAJORICA. The Holy Congregation, after hearing the report of the Most Reverend Cardinal Capalti, and observing the customary procedures, on February 4, 1871, decided to respond affirmatively. This resolution was confirmed by the Holy Father on the 9th of the same month and year. DIANA. Regarding the confirmation of the ancient devotion rendered to the Holy Confessor, a member of the Order of Saint Benedict, now venerated as a saint. Concerning the doubt: "Whether the judgment rendered by the

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Bishop of Diana concerning the ancient devotion rendered to this same servant of God, with regard to a case excepted from the Decrees of Pope Urban VIII, should be confirmed in the case and with the effect for which it is being considered." The Holy Congregation, after hearing the report of the Most Reverend Cardinal Pitra, and observing the customary procedures, on April 22, 1871, decided to respond affirmatively. This resolution was confirmed by the Holy Father on the 22nd of the same month and year. NAPLES OR PENNE. Concerning the beatification and canonization of the Venerable Servant of God, Nuntius Sulpritius, a young man from the Diocese of Penne. "DECREE. At the request of the Reverend Canon Jacob Arrighi, Postulator of the cause of the aforementioned Venerable Servant of God, by a particular letter of the Congregation of Sacred Rites, dated May 23, 1870, it was ordered to the Ordinary of the Archdiocese of Naples and the Diocese of Penne, that, according to the Instructions of the Holy See, they should..." (*) Regarding such a matter, we commend this cause to our readers, using the very same words that we wrote previously, as found on page 499 of Volume V, pages 487 and following. On this occasion, for...

[*Latin ed. p. 367*]

NAPLES, BUT ALSO PENNE. 367 of the Promoters, in the aforementioned letters, diligently investigated all and each document bearing the name of the aforementioned Servant of God, whatever title it may have, in the respective cities and dioceses. Although the Most Reverend Ordinary of the Archdiocese of Naples faithfully fulfilled the assigned task, no document bearing the name of the aforementioned Servant of God could be found; nevertheless, the aforementioned Ordinary did not fail to carry out the process of investigation, and sent the sealed and wax-sealed document to the Sacred Congregation of Rites in Rome. In the Diocese of Penne, only one letter, written by the hand of the Venerable Servant of God, was found through the investigations carried out there, which, together with the authentic process of the investigations, was sent to the aforementioned Sacred Congregation in Rome by the Most Reverend Ordinary of the aforementioned Diocese of Penne. The aforementioned letter has, on one side, "To my most esteemed Signor Zio," and on the other, "Naples, 10th of May, 1834." The letter contains seventeen and a half lines and begins with these words, "It has been almost two years," and concludes with these words, "and they are always," and has this signature, "Your most affectionate nephew, Nunzio Sulprizio Luciani." Outside, there is this inscription: "To Signor Domenico Luciani, Popoli, near Pescosansonesco." When the Most Reverend and Most Eminent Cardinal Aloysius Bibo, Promoter of this Cause, reported at the Ordinary Meetings of the Sacred Congregation of Rites held today at the Vatican, that he had found nothing in this letter that could impede the further progress of the Cause itself; the Eminent and Reverend Fathers entrusted with the safeguarding of the Sacred Rites, hav-

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ing also heard the voice of the Reverend Father Dominic Minetti, Promoter of the Holy Faith, judged it necessary to write back: "Nothing stands in the way of proceeding further, reserving, however, the right of the Promoter of the Holy Faith to object, if and to the extent that it is lawful." "September 2, 1871." After this, a faithful report of the aforementioned matters was made to the Most Holy Lord, our Pope Pius IX, by the undersigned Secretary, and His Holiness approved and confirmed the Decree of the Sacred Congregation in all respects. "September 7, of the same month and year." C. Episc. Ostien. et Velitern. Cardinal PATRIZI, S. R. C. Prefect. Place, with the seals. Dominic Bartolini, S. R. C. Secretary.

[*Latin ed. p. 368*]

368. LUCIONEN. Concerning the Beatification and Canonization of the Servant of God Aloysius Mary Baudouin, Founder of the Congregation of the Daughters of Mary Immaculate and the Society of the Ursulines of Jesus, commonly known as of Chavagnes. DECREE. "On the tenth day before the Kalends of December in the year 1866, and on the thirteenth day before the Kalends of October in the following year 1867, when the Most Holy Pope Pius IX, with paternal benevolence, ordered that the matter concerning the introduction of the cause of the Servant of God Aloysius Mary Baudouin, aforementioned, be considered in the Ordinary Congregation of Sacred Rites without the intervention and vote of the Consultors, although less than ten years had elapsed since the presentation of the Ordinary Process in the Acts of the Congregation of Sacred Rites, and the writings of the same Servant of God had not been thoroughly investigated and examined, We and the Most Reverend Cardinal John Baptist Pitra, Promoter of this cause, at the request of the Most Reverend Gustavo Gallot, Honorary Chamberlain of His Holiness and Postulator of this cause, having considered the Postulatory letters of several men, especially those of illustrious Ecclesiastical Dignitaries, assembled in the Ordinary Congregations of Sacred Rites in Vatican, proposed the following question for discussion: Namely, whether the Commission for the Introduction of this cause should be signed in this case and for the purpose mentioned? And the same Sacred Congregation, after mature deliberation and having heard the opinion in writing of the Reverend Father Peter Minetti, Promoter of the Holy Office, decided to respond: Affirmative, that is, the Commission should be signed, if it pleases the Most Holy [Pope]. On September 2, 1871. Having subsequently made a faithful report to the Most Holy Pope Pius IX regarding the foregoing, His Holiness approved and confirmed the judgment of the Sacred Congregation, and with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God Aloysius Mary Baudouin. On the 7th day of the same month and year. C. Episc. Ostien. et Velitern. Cardinal PATRIZI, S. R. C. Prefect. In place of the seals, D. Bartolini, S. R. C. Secretary. VATICAN. In the same Holy Congregation,

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judgment was also rendered concerning the signing of the Commission for the Introduction of the Cause of the Venerable Servant of God Benedicta Rencurel, of the Third Order of Saint Dominic, of which the Decree will be presented in the following fascicle.

[*Latin ed. p. 369*]

3G9 BY THE DIVINE PROVIDENCE OF OUR LORD AND SAVIOUR, POPE PIUS IX, ADDRESS GIVEN ON THE SEVENTEENTH DAY OF OCTOBER, MDCCLXXI, TO THE CARDINALS OF THE HOLY ROMAN CHURCH, IN THE BUILDINGS OF THE VATICAN. VENERABLE BROTHERS: "We have convened your most esteemed assembly, setting aside the usual solemnity of ritual, in order to communicate with you a matter of such gravity that we have decreed to consult with you concerning the spiritual needs of the Christian people in Italy. It is unnecessary, Venerable Brothers, for us to recount here those things which we have repeatedly deplored in our Allocutions or in our Encyclical Letters addressed to all the Bishops. For they are known to all, and so thoroughly explored that, without any audacity, they cannot be denied, nor can they be concealed by any excuse intended to lessen the resentment, the hostile and immense injuries which are already being inflicted, and are continually being inflicted, upon the Catholic Church and the Apostolic See in this afflicted Italy; and which, this City being occupied by force, We ourselves are compelled to suffer and witness with you, so that, with the words of the Royal Prophet, we can rightly say: 'I have seen iniquity and contradiction in the city, and it surrounds it on every side, injustice within its walls, and toil in its midst, and injustice' (1). Indeed, Venerable Brothers, we are almost overwhelmed by these very grievous waves of evil; but we do not shrink from enduring even more severe trials, strengthened by the infirmity of God; nay, we are even ready to seek death itself, if it should please the merciful God to accept this humble offering for the peace and freedom of the Church." "Indeed, among so many other causes of sorrow, the most bitter has always been to us the lack of many sees, which in miserable Italy have long been deprived of the guidance of their own Bishops; and from this has arisen the further need of spiritual assistance, with which the faithful people are afflicted in these calamitous circumstances and times..."

(1) Psalm 54. Acts, vol. VI, page LXIX.

[*Latin ed. p. 370*]

370 ADDRESS. These matters press upon us with greater urgency. When such a necessity arises, that we can no longer, urged by the charity of Christ, fail to respond, considering the immense number of widows in Italy and the vast and numerous provinces of Italy, which scarcely number two or three sacred ministers, considering the long-standing persecution against

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the Church and the efforts of the impious to uproot the Catholic faith from the hearts of Italians, considering the dangers of the greatest disturbances that threaten civil society itself, we judged that it was no longer permissible to delay in offering help to our beloved sons and daughters in Italy, whose cries of distress from their own regions often reach us, and to appoint pastors to them, men of virtue, who, with a single purpose dedicated to the glory of God and the salvation of souls, will add all their care and zeal to these matters. Therefore, we assign to the churches of Italy, afflicted by widows, bishops in the name of Jesus Christ, the Son of God, partly today and partly in the future, confident that He, who has granted us authority and demanded this office, will, through His infinite mercy, remove all obstacles that might be opposed to this work of our ministry, and will bless these our endeavors undertaken solely for the spiritual welfare of souls. At the same time, before the entire Church of the confessors, we utterly reject those guarantees, as they are called, as we clearly stated in our encyclical letters of May 15th of this year, and we openly declare that we exercise the power granted to us by Him, who is the Prince of Pastors and the Bishop of our souls, that is, the power given to us by Jesus Christ, our Lord, in the person of the Blessed Peter, from whom, as our predecessor Saint Innocent said, "this episcopate and all authority of this name arose" (1). Furthermore, on this occasion, we cannot pass over in silence the temerity and perversity of certain men in another region of Europe, who, miserably deviating from the rule and communion of the Catholic Church, openly attack the authority of the most holy ecumenical Council of the Vatican, and the truths of the faith solemnly declared and defined by it, through writings filled with every kind of error and falsehood, and through sacrilegious assemblies held among themselves.

(1) Epist. ad Conc. Carthagin.

[*Latin ed. p. 371*]

ALLOCUTION I, § 371, especially concerning the supreme and full power of jurisdiction which the Roman Pontiff, the successor of the Blessed Apostle Peter, possesses over the entire Church by divine ordinance, and also the prerogative of infallible teaching with which he is endowed, when exercising the office of supreme Shepherd and Doctor of the faithful in defining matters of faith and morals. "But these sons of perdition, in order to incite secular powers against the Catholic Church, attempt to persuade them fraudulently that the decrees of the Vatican Council have altered the ancient doctrine of the Church, and that a grave danger is thereby created for the republic and civil society. What more unjust, or at the same time more absurd, can be conceived or devised than these calumnies? Nevertheless, it is regrettable that, in some places, even the administrators of the state have been caught by such wicked insinuations, and, having no regard for the offense of the faithful people, have openly

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shown their support and confirmed with their favor the rebellion of these new sectarians. While we today, with sorrow, briefly lament these things before you, we understand that you deserve all praise for the bishops of that region, among whom the Venerable Brother Archbishop of Monacensem must be mentioned with honor, who, through a singular bond of spirit, pastoral zeal, admirable fortitude, and outstanding writings, most brilliantly defend the cause of truth against such endeavors; and we attribute a share of this commendation to the entire clergy and faithful people, who, with God's help, respond with increasing devotion to the solicitude of their pastors. But meanwhile, Venerable Brothers, our eyes and our hearts must be turned to where necessary and timely help can be obtained. Therefore, let us not cease night and day to call upon the most merciful God, that through the merits of Jesus Christ, His Son, He may enlighten the minds of the erring, so that, contemplating the abyss of their path, they may not neglect their eternal salvation; and may He continue to grant to His Church the spirit of fortitude and zeal in this great struggle; and may He deign to bring about, through the offering of holy works, through worthy fruits of faith, and through the desired days of expiation, that these errors and such adversities may be destroyed, and that the kingdom of justice and peace may be restored, so that He may receive the sacrifices due to His majesty of praise and thanksgiving."

[*Latin ed. p. 372*]

372 FROM THE HOLY CONGREGATION OF RITES. A COMMENDATION FOR THE CITY AND THE WORLD, IN HONOR OF SAINT LEO, BISHOP AND MARTYR, TO BE INSERTED INTO THE ROMAN MARTYROLOGY. March 13th. After the words "were slain with the sword," ADD: "ALSO AT ROME, SAINT LEO, BISHOP AND MARTYR." - Regarding a Doubtful Matter, in the Ordinary Assembly of the Sacred Congregation of Rites, held on the aforementioned day at the Vatican, by the Most Eminent and Reverend Cardinal Aloysius Billio, appointed as Relator of this Cause: "Whether and in what manner the name of Saint Leo, Bishop and Martyr, whose body was formerly venerated in the Agro Verano, near Saint Lawrence, should be inserted or restored in the Roman Martyrology?" The Most Eminent and Reverend Fathers, Prefects of the aforementioned Sacred Congregation, having heard the opinion, by order, of the Reverend Doctor Augustine Caprara, Coadjutor Subpromotor of the Holy Faith, and Assessor of the same Sacred Congregation, after mature deliberation, judged it fitting to decide: "Affirmatively, and the name of Saint Leo, Bishop and Martyr, should be restored in the Roman Martyrology, on the day of March 13th, with the aforementioned Commendation." March 2nd, 1871. "And afterwards, a faithful report of the aforementioned matters was made to His Holiness, our Lord Pope Pius IX, by the undersigned Secretary, and His Holiness graciously approved, and ordered that the

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aforementioned Commendation be inserted in the new editions of the Roman Martyrology. March 7th, of the same month and year." "C. Ep. Ostien. et Velitern. Card. PATRIZI, S. R. C. Prefect. D. Bartolini, S. R. C. Secretary."

[*Latin ed. p. 373*]

OF THE CITY AND THE WORLD. 373. A VOW DERIVED FROM OFFICE, SUMMARIZED.

Since the memory of the Bishop and Martyr of Sancti Leonis had almost faded away over many centuries, and due to new works begun in Rome by the munificence of Our Most Holy Lord in the Constantinian Basilica of the Hieromartyr Lawrence, a controversy arose among the members dedicated to explaining sacred antiquities, concerning whether the image of the Bishop and Martyr of Sancti Leonis should also be depicted among the images of the Saints whose bodies were buried in that Basilica, or near it. Therefore, the Most Reverend Cardinal Patrizi, president of that society, considered it appropriate, using the ordinary authority he possesses, to initiate an inquiry. With a public prosecutor appointed, the inquiry and process completed, this archaeological controversy gave rise to another, about which we are now speaking. Thus, what emerged from that process led to this second question: Whether and how the name of the Bishop and Martyr of Sancti Leonis, whose body was formerly venerated in the field of Verano, near Saint Lawrence, should be included or restored in the Roman Martyrology. This question, by its very nature, was to be resolved in the Holy Congregation.

Now, since this second controversy seemed to depend entirely, not on presenting reasons to request the insertion of a eulogy in the Martyrology as a matter of grace, but rather on restoring to the Martyrology what had been omitted by right; a consultant wrote down a series of principal documents or monuments from the process, which persuaded [them] that the restoration should be made. The consultant presented this series of principal documents or monuments in these words: "Not once does mention occur of a Leo of this kind in the Liber Pontificalis, which, although it cannot be entirely attributed to Anastasius the librarian, is nevertheless highly valued by scholars, because it..."

[*Latin ed. p. 374*]

374 OF THE CITY AND THE WORLD. It was compiled from ancient Roman documents pertaining to the Church. And so, in the life of Hadrian I, we read: "He, that same pious Father, restored the Basilica of Saint Lawrence the Martyr, where the holy remains of that saint repose, which had been annexed to the larger basilica... both inside and out." Indeed, "He also renovated the church of Saint Stephen, located nearby, WHERE THE BODY OF SAINT LEO, BISHOP AND MARTYR, RESTS, as well as

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the entire cemetery of Blessed Cyriacus, or her ascent." Furthermore, in Leo IV: "He... the Pope... donated one vestment of fine cloth to the church of the Blessed First Martyr Stephen, which is located outside the city walls, near the church of Saint Lawrence the Martyr, and within the walls of this church, IN THE ORATORY OF SAINT LEO THE MARTYR, he made another vestment of fine cloth." From these passages, it is clear that there existed, near the Basilica of Saint Lawrence, built outside the city walls, a chapel in which the mortal remains of Saint Leo, Bishop and Martyr, were kept. Moreover, a certain illustrious John Baptist De Rossi, in the Palatine Codex, wrote an epitaph that was once placed on his own tomb, which was of this nature: "All that you see, I sought out with my own diligent labor, while a kind life was still granted to me. Wishing to ascertain the census of the world, I followed the judgment of God, choosing His greater blessings. Having scorned riches, I preferred to know Christ: This was my care, to clothe the naked, to give to the poor whatever the year provided, to sing and, like the Prophet, to inspire the people. Thus, I merited to retain the people of Christ. The priest. This tomb was prepared for me by my wife, Laurentia, always venerable to me, faithful in her morals, and finally, unhappy envy will let her rest. Leo, eighty years, surpassed the rank of Bishop." These verses recall the style of Damasus, although perhaps they do not have Damasus himself as the author, as learned men believe. But, what is of utmost importance, the same illustrious man, John Baptist De Rossi, consulted the oldest Codex of the Martyrology of Jerome in the Bernese Library, the authority of which is well-established.

[*Latin ed. p. 375*]

OF THE CITY AND THE WORLD. 375. All the wealthy men make great efforts; he found a small inscription, in which not only the memory of this St. Leo is recalled, but also the day of his deposition is indicated. "The day before the Ides of March, at Rome, Leo, Bishop and Martyr" (1). That this praise pertained to Leo, the Bishop and Martyr, of whom we are speaking, was demonstrated almost by divine providence, when, in recent years, near the Basilica of St. Lawrence, beneath the ground, near the hill, not only the vestiges of the aforementioned sanctuary appeared, but also two fragments of stone were found in that place, along with a grating, an indication of a very famous tomb. These two fragments of inscriptions, joined together with a third, which had long stood in the garden of the Monks of Camaldoli on the Caelian Hill, give the following six lines, taken from the Palatine Codex, and also indicate the day of his deposition: namely. "The three fragments of this sepulchral inscription, now collected into one, can be seen in the upper portico of the Christian Museum at the Lateran Palace." Therefore, new authority has been added to the Bernese Codex, since there, the day before the Ides of March, is mentioned St. Leo, Bishop and Martyr (1).

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(1) The complete inscription will be given in Appendix VII.

[*Latin ed. p. 376*]

376 OF THE CITY AND THE WORLD. This matter should be considered. Even more so, because the Martyrology of Laushemense mentions, for the day "the day before the Ides of March," "the birth of St. Leo, Pope" (according to George, in the Martyrology of Adonis). This indication of the day, since no Roman Pontiff of that name corresponds to it, must be taken from the esteemed Hieronymian Martyrology. Indeed, all know that in the early centuries of the Church, that name, besides the Roman Pontiffs, was also given to Bishops. Therefore, there is no doubt that several centuries ago, St. Leo, Bishop and martyr, obtained public and ecclesiastical veneration in Rome, in the Agro Verano, and that the day of his deposition is celebrated on the day before the Ides of March. "Nor should it seem surprising," the Consultor inquired, "that no mention of martyrdom is found in the account." He observed that the inscription was not complete; and that the same title was also lacking in other inscriptions placed on the tombs of martyrs, concerning whose martyrdom no one doubts: this could have happened for various reasons, since the recognition by which the Church attributed the name and veneration to a martyr did not always immediately follow; especially if the matter was not strictly of a martyr, who died for Christ by the shedding of blood, but in a broader sense, to the extent that persecution, for the sake of the glory of the Christian faith, oppressed the martyr, and thus made him a martyr. In this matter, the illustrious aforementioned John Baptist De Rossi had already conjectured from the penultimate verse in the aforementioned inscription: "Unhappy envy will finally be silenced." Since that inscription recalls the time of Damasus, and cannot be later than the fourth century of the Church, the Consultor suspected that this Leo was to be counted among those who, at that very time, were martyrs without shedding blood. For it is well known how many hardships, how many exiles, how many imprisonments those who fiercely defended the orthodox faith against the Arian impiety suffered at that time. Indeed, these documents and monuments, with every exception, seem sufficient to restore the name of St. Leo, Bishop and martyr, to the martyrology: for the Roman martyrology is still a manuscript that is incomplete and needs to be perfected, as is the case everywhere.

[*Latin ed. p. 377*]

URBIS ET ORBIS 377, as He himself, Benedict XIV (1), indicated, who in the very Apostolic Letters given to John V, King of Portugal, concerning the new edition of the Roman Martyrology, also stated: "It is to be lamented that many names of Saints have been omitted from various editions of the Martyrology due to the negligence and carelessness of those whose duty it was to examine the Acts, to collect the Decrees, and to use

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them prudently for the addition of new names." Therefore, by the same right, Saint Leo, Bishop and martyr, should also be included in the Roman Martyrology, as evidenced by documents and monuments, where other Saints of the same antiquity are found (2). But it was not sufficient for the Consultor to present these documents and monuments in order to conclude the restoration of that name in the Martyrology: he further demonstrated that the cult of Saint Leo has persevered to this day, in order to remove any shadow of doubt. He showed this by the fact that the body of Saint Leo, Bishop and martyr, is still venerated among the relics of the Saints. In the aforementioned Pontifical book concerning Sergius II, we read: He... the Most Blessed Pope... for the honor of Almighty God, and of the same Most Blessed Sylvester, placed the bodies of the Most Blessed Fabian and Stephen and the martyrs Sotere and Asterius, together with his holy daughter and Saint Cyriacus and Maurus, Largo and Smaragdus and Anastasius and Innocent, TOGETHER WITH SAINT QUIRINUS AND SAINT LEO, BISHOP; also Artemius, Nicander, and the martyrs Crescentian, together with the Blessed Sotere and Paulina... and with many others, whose names are known to God, under the sacred altar. Having presented this document, the Consultor continued: "Therefore, Sergius the Younger, also called Ii, in the Basilica of the Saints Sylvester and Martin, among many bodies of Saints, also placed that of a certain Saint Leo, under the sacred altar. Whether this Leo is the one whom we mentioned above (1). However, a Decree of the Sacred Congregation has been proposed, which, when published, I will quote on page 83. I will also write the syllable in App. VII. (2). Many other very ancient documents, which abundantly confirm the distinction between Saint Leo, Bishop and martyr, and Saint Leo the Great, have been presented above: these have been provided by the Most Eminent Roman Pontiff and the Most Reverend Cardinal Aloysius Billio in S.

[*Latin ed. p. 378*]

378 The monuments brought from the city and the surrounding areas indicate this, although it is not explicitly stated; however, apart from the Popes Leo, about whom we cannot speak here, no other Bishop Leo is venerated in Rome, with the exception of the one we are discussing: therefore, it cannot be believed that the body, which Sergius I transferred to the aforementioned basilica, is different from that of the Bishop Leo, originally buried in the Agro Verano. Furthermore, the events of the time suggest this, since it is known that, due to the incursions of the barbarians, the Roman Pontiffs brought many of the bodies of the Saints, which had been buried in the suburbs, into the city. However, when the bodies of the Saints were transferred from elsewhere, this was explicitly noted in the records. A very strong indication is added by the fact that Sergius I placed the body of St. Leo the Bishop, and of others, whom Anastasius names individually, under

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the sacred altar, along with many others, whose names are known only to God. Therefore, this St. Leo the Bishop was not from the common ranks, but was of the highest order, and was considered to be of the same rank as the Saints Fabian, Stephen, Soter, the Roman Pontiffs, and others of whom mention is made there. Indeed, as the learned Mr. De Rossi has rightly observed, in various cemeteries in the suburbs, tombs still exist from which bodies were removed; and since antiquity has not transmitted the memory of any other tomb of St. Leo the Bishop, except for that near the Basilica of St. Lawrence, it cannot be believed that the body which is now venerated in the sacred Aedes is different from that which was formerly venerated under the title of St. Leo the Bishop and Martyr in the chapel of St. Stephen in the Agro Verano. Finally, this is confirmed by an ancient inscription, which still exists near the hypogeum of the Basilica of Sts. Martin and Sylvester, which reads as follows: "In the time of Pope Sergius I, the body of the Blessed Sylvester the Prelate and of Blessed Martin... together with St. Quirinus and Bishop Leo, and also Artemius, etc..., were hidden in this sacred altar, as is almost exactly stated in the Pontifical book cited above; and then, towards the end, it is added: These bodies of the Saints were transferred from the cemetery of Priscilla on the Via Salaria." Let this word "Priscilla" not cause difficulty for anyone, as if all and each of the bodies of the Saints mentioned were removed from a single cemetery of Priscilla. However, as the most distinguished men, Felix Profili, Father Francis Tongiorgi, and the aforementioned John Baptist, have appropriately pointed out in their examination...

[*Latin ed. p. 379*]

URBIS ET ORBIS 379: Concerning Rossi, it is not only in the cemetery of Priscilla that those bodies, which are mentioned there, were laid to rest; but rather in many other cemeteries, both similar and different. Therefore, this stone, which dates to the era of Sergius II, is certainly much later, and while it is indeed suitable in terms of the generic designation of a cemetery, it does not definitively pertain to Priscilla.

Furthermore, in the Basilica of Saint Sylvester and Saint Martin, there is an image of this Saint Leo, which has been placed there since the year 1648, with the inscription "Saint Leo, Bishop." Moreover, as authentic documents demonstrate, since the year 1478, the Carmelites have instituted an Office and a Mass dedicated to Saint Leo the Bishop, just as they have done for others (as listed in the Roman Martyrology), whose bodies rest there, and this practice continues to this day, although the Carmelites, through a readily understandable error, call him the Bishop and Confessor, and celebrate him on the 20th of February, confusing him with Saint Leo the Confessor of Catania in Sicily, who is listed on that day in the Martyrology (see Baronius, *Martyrium*, for that day), and who is much more recent than our Saint Leo. However, in the old calendar of the same Order, pub-

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lished in Rome in the year 1564, for the 11th of April, it reads "Leo PP. et Mart. du. c. S. Mar.," meaning that they clearly called him a martyr in the convent of Saint Martin; but perhaps they were confusing him with Saint Leo the Great, who, moreover, was not a martyr.

This Office and Mass were celebrated at least until the year 1575, as the liturgical books of the Carmelites show; however, a change seems to have occurred in the year 1628.

Finally, summarizing what has been presented thus far, the Consultor brought forward the doctrine to be applied to the matter at hand.

Indeed, Benedict XIV states in his work *De canonizatione*, book 1, page 2, chapter 18, paragraphs 6 and 7: "Therefore, in describing those included in the Decretals, the names of the canonized are to be found in the Roman Martyrology, whether we speak of those who, after the edition of the Martyrology, are subsequently added by the Supreme Pontiff to the list of Saints, or of others who have been canonized by some approved method by the Church, and whose names have not yet been included in the Roman Martyrology itself."

It is clear from the daily practice and examples that the names of those who, after the edition of the Martyrology, are subsequently added by the Supreme Pontiff to the list of Saints, are to be found in the Roman Martyrology.

[*Latin ed. p. 380*]

380 OF THE CITY AND THE WORLD: "Those who, in some way approved by the Church, are canonized, and whose names have not previously been recorded in the aforementioned Martyrology, are admitted, because the same reasons apply to them as apply to others who are subsequently included in the list of Saints by the Supreme Pontiffs, and because examples to confirm this are not lacking. Indeed, the name of St. Leo III was recorded in the Roman Martyrology, which had been omitted in editions during the time of Gregory and Sixtus, as is stated in the Decree of the Sacred Congregations, apud Bollandianos, for the day of June 12, volume 1, etc. Furthermore, what applies to this case also seems applicable to the words left by the same Pontiff, speaking of St. Syriacus, ibid., § 49: "What we cannot help but marvel at is that, although the name of the pontiff Syriacus is presented by numerous Martyrologies, both ancient and reliable, which are published by the Bollandists, volume 3, February, page 232, and which we will indicate below, the Roman Martyrology has long lacked this codex." And, after presenting the reasons that favored the cause of Syriacus, he concludes, § 94: "Although the judgment that is rendered regarding the inscription of the name of a Saint in the tables of the Martyrology, or the restoration of a name to the Martyrology from which it was removed, differs greatly from the judgment in which the cause of solemn canonization is considered... in this case, as we have argued for St.

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Syriacus, we have followed the same method and procedure that is used in causes of canonization... Therefore, nothing prevents the name of Syriacus from being inscribed in the Roman Martyrology, if the cause is sufficiently known and has been thoroughly examined with the most valid reasons and monuments that demonstrate the sanctity of Syriacus; and for this reason, we have decided and ordered that it be inscribed." These, the Consultor concluded, are the things that seem to apply to our case; therefore, he believed that the answer to the question should be affirmative, for the day before the Ides of March, with the addition: "At Rome, of St. Leo, Bishop and Martyr." FROM WHICH YOU CAN GATHER: I. According to the current law, in the cases of Servants of God, a new insertion of Saints into the tables of the Roman Martyrology.

[*Latin ed. p. 381*]

URBIS ET ORBIS 381: There are legitimate reasons for a canonization to be carried out; another reason for the vindication of Saints who were omitted in those same tables. II. A new insertion is not to take place, except after a defined solemn canonization, according to the current discipline, or, if it concerns Saints mentioned in the Decrees of Urban VIII, after a recognized consensus of the Church, by which a certain Servant of God is universally recognized as a Saint within the Church; which can happen through the widest diffusion of devotion (1). III. Conversely, a vindication is warranted if a certain Servant of God has been universally recognized as a Saint in antiquity, even though his memory may later be obscured for human reasons, and for the same reasons, his eulogy may be omitted in the revised Roman Martyrologies. IV. To demonstrate that a certain Servant of God was universally recognized as a Saint in antiquity, it is sufficient that he was considered a Saint in the Roman Church. V. The most serious arguments for this judgment are the inscription in the oldest Roman Church Martyrologies, indicating the date of his death for the purpose of celebrating his memory; the erection of a tomb in a title or oratory, in which gatherings of the faithful were held to celebrate the same memory; and other signs of devotion, which are present, to demonstrate that the Roman Church considered a certain Servant of God, without any distinction, as one and the same among the Saints and Martyrs. VI. With these things established, he who has been omitted should, with the very same right as the other Saints listed in the Martyrology, be reinstated. VII. All of these things have abundantly occurred concerning St. Leene, Bishop and Martyr; therefore, he should rightfully and justly be restored to the Roman Martyrology. (1) Compare the case of Blessed Juliana, page 52, and those things which we noted there concerning Cornelius, which we presented in volume

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V, page 65.

[*Latin ed. p. 382*]

APPENDIX VII. MOST ANCIENT DOCUMENTS PRESENTED BEFORE THE HOLY CONGREGATION OF SACRED AND REGULAR COUNSELS BY THE MOST DISTINGUISHED PROCURATOR CONCERNING THE RESTORATION OF THE NAME OF SAINT LEO, BISHOP AND MARTYR, TO THE TABLES OF THE ROMAN MARTYROLOGY. THE HIERONIMIAN MARTYROLOGY OF BERN (*) MENTIONED: On the eve of the Ides of March: Eufrosius, Frenimus, Nicomedes, Felicissimus, Dativus, and Frontinus in Africa; Alexander, Dione, Nicomedia, Peter; Mämeri, and Nabor, martyrs; Comes, Fronton, Thessalonica, Dionysius; Alexander Palatinus; Eufrosius; Fronimus in ROMA; LEO, BISHOP AND MARTYR in Antiochia, Hicomedia; Epionius in Roma; Innocent, BISHOP. (*) From the Martyrology of Bemer. Compare Clar. I. B. De Rossi, *Roma Sotterranea*, Volume II, page XII and following.

[*Latin ed. p. 383*]

APPENDIX. From the Lives of the Martyrs and the most ancient Calendars, in which, under the name of St. Leo, the notation "d. II. Id. Martii" is found, as indicated above, page 1546. Also, in Boiland, *Acta Sanctorum*, Vol. VII, edition of Venice, page 371. The *Codex Augustanus* refers to the 12th century. See Preface, above, page 352. The Ides of March are described in Rome. See Martène (in the aforementioned place, page 1565), who in the Preface affirms that the Martyrology of Morbach is neither older nor more worthy than that of Auxerre, which is mentioned below. The editor, on the day before the Ides, with the double designation of Bishop and Martyr, is found in Martène (*Thesaurus novus anecdoticus*, Vol. III, page 1553), who refers it to the approximately 8th century. See Admonition or I. Martyr, an ancient text under the name of St. Hieronymus, taken from a manuscript of the Monastery of St. Germain in Auxerre: "II. Idus Martii. Eufrosia, Peter. In Rome, Leo, Bishop and Martyr." "III. Idus Aprilis. In Rome, Leo, Pope." "II. Antiquum Martyrologium Morbacense, from a manuscript code of the Monastery of Morbach." "MARTIUS." "The day before the Ides, in Rome, Leo, Bishop and Martyr." "APRILIS." "III. Idus. In Rome, Leo." "III. Martyrologium Augustanum of the Monastery of St. Udalric." "II. Ides of March. Eufrosia, Alexander, Peter, Pronimus, Peoais, Innocentius, Felicissimus. In Rome, Leo, Bishop and Martyr." "III. Idus of April. In Rome, Leo, Pope and Confessor."

[*Latin ed. p. 384*]

384 C VII. APPENDIX IV. The Martyrology of Labbe: n. On this day, the Martyrs Eufrosia, Alexander, Peter the Martyr, Pronimus, Pionius, Innocentius, and Felicissimus. In Rome, Leo, Bishop and Martyr. H I. The Kalends of April. In Rome, Leo, Pope and Confessor. See Bollandus, 1st

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volume, page 378. Sollerius states that it is impossible to safely determine the age of this Martyr.

B. ANCIENT MARTYrologies and Calendars, in which, on the 12th or the Eve of the Ides of March, the memory of St. Leo is commemorated, with the double designation of Bishop or Pope and Martyr, without any topographical note. See Martène, *Veterum Scriptorum et Monumentorum Amplissima Collectio*, volume VI, page 640. The manuscript appears to belong to the 10th century. See the preceding observation, ibid., page 635.

I. An ancient Martyrology of the Monastery of St. Maximin near Treviri, mentioning the name of Bede: MARCH. 12th of the Ides. The Nativity of St. Leo, Pope and Martyr. Felix and David (thus). APRIL. 3rd of the Ides. The Nativity of St. Siagrius and St. Leo, Pope. See Florentino, *Veteris Eccl. Occid. Martyres*, page 1050.

II. A small Hieronymian Martyrology, taken from an ancient parchment book in the Library of the Canons of Lucensium: MARCH. 12th of the Ides. Leo, Bishop and Martyr. APRIL. 3rd of the Ides. Leo, Pope and Doctor.

[*Latin ed. p. 385*]

APPENDIX VI. 385 III. The Brixian Calendar, compiled in the thirteenth century and placed in the Missal belonging to the Cathedral Basilica of Brixia: March. The eleventh day before the Ides of March, of Saint Leo, priest, and in April, the eleventh day before the Ides of Leo, priest. See Zaccaria, *Anecdota Mediae Aevi*, page 188. Compare with *Admonitiones*, previous page, page 182.

MARTYROLOGIES AND ANCIENT CALENDARS, among which one is called "Martius Ap. Florentinum," see *Op. cit.*, page 1050. Also, see Ap. Martène, *Thesaurus Novus Anecdot.*, volume III, page 1596. The Corbeiensi Calendar appears to have been written in the tenth century, taken from an older manuscript of the monastery of Saint Vedast in Atrebatensis. See *Admonitiones*, previous page, page 1547. VI, page 680. The name Saint Leo, whether of a martyr, a bishop, or a pope. See Ap. Martène, *Veteris Scriptorum et Monumentorum Amplissima Collectio*, volume VI, page 680. The Verdinen Calendar appears to have been written in the twelfth century. See *ib.*, *Observationes*, previous page, page 635. In the aforementioned volume, the following is described: The Verdinen Calendar: MARCH. The eleventh day before the Ides. Saint Donatus and Saint Leo, martyr. April (is missing in the Codex). III. The Martyrology of Bede, or rather, an index compiled by Bede, from the Lucensi Codex: MARCH. The eleventh day before the Ides, Saint Leo, bishop. April (is missing). III. The Ancient CorDeiense Calendar from the Corbeiensi manuscript Codex: MARCH. The eleventh day before the Ides, the Nativity of Saint Leo, pope. APRIL. The eleventh day before the Ides. At Rome, the deposition of Saint Leo, pope. On the Aurelia road, the deposition of Saint

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Julius, pope. 25.

[*Latin ed. p. 386*]

$8.6 APPENDIX VII. From St. George, Martyr, page 690. IV. From the Lawreshamense Calendar and the Vatican Palace Codex, number 485, of the ninth century: MARCH. The first day: The Nativity of Pope Leo. (Written in a different character, but almost the same). APRIL. The eleventh day: The Nativity of Pope Leo. From the Acts of the Saints, edition of Venice, volume II, page 342. Concerning the day before the Ides of March, those omitted: "St. Leo, Pope, with nine readings in the Mozarabic Missal. He is also mentioned in the Martyrology manuscript of Arras (-Boulogne-Saint-Omer), and in the manuscript Breviary of Mons. But in some manuscripts, he is called Bishop and Martyr of Rome. In another manuscript, Leo, Martyr. We shall assign all these to the day of St. Leo the Great, April 11."

[*Latin ed. p. 387*]

387 VAPICE. Concerning the Beatification and Canonization of the Servant of God, Benedicta Rencurel, of the Third Order of Saint Dominic. "DECREE. On the eighteenth day before the Kalends of December in the year 1867, and on the sixteenth day before the Kalends of April in the year 1870, when Our Most Holy Lord Pope Pius IX, with paternal benevolence, ordered that the matter concerning the introduction of the cause of the Servant of God, Benedicta Rencurel, of the Third Order of Saint Dominic, be considered in the Ordinary Congregation of Sacred Rites, without the intervention and vote of the Consultors, although less than ten years had elapsed since the presentation of the Ordinary Process in the Acts of the Congregation of Sacred Rites, and the writings of the aforementioned Servant of God had not been thoroughly investigated and examined, We, and the Most Reverend Cardinal Hannibal Capalti, in place of the Most Eminent Cardinal Luciani Bonaparte, the Promoter of this Cause, who was absent, at the request of the Most Reverend Father Alexander Vincent Jandel, the General Master of the Order of Preachers and the Postulator of this Cause, and after considering the Postulatory Letters of several men, especially those of illustrious ecclesiastical dignity, who were assembled in the Ordinary Congregations of Sacred Rites at Vatican, on this day, proposed the following question for discussion: Namely, whether a Commission for the Introduction of this Cause should be appointed, in this case and for this purpose? And the Sacred Congregation itself, after maturely considering all matters, and after hearing the voice and written opinion of the Reverend Father Peter Minetti, Promoter of the Holy Faith, decided to respond: Affirmative, or that the Commission should be appointed, if it pleases the Most Holy [Pope]. On the 2nd of September, 1871. "Afterwards, a faithful report of the above was made to Our Most Holy Lord Pope Pius IX by the undersigned Secretary. His Holiness approved and confirmed

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the judgment of the Sacred Congregation, and with his own hand signed the Commission for the Introduction of the Cause of the Venerable Servant of God, Benedicta Rencurel. On the 7th day of the same month and year. "C. Episc. Ostien. et Velitern. Cardinal PATRIZI, S. R. C. Prefect. In place of the Sign. D. Bartolfni, S. R. C., Secretary."

[*Latin ed. p. 388*]

388 FROM THE SACRED CONGREGATION FOR INDULGENCES. DECLARATION Concerning the formula: "WITH A CONTRITE HEART," which is usually added to the granting of partial indulgences. "According to the practice of the Apostolic See, when granting plenary indulgences, the clause is added: 'To the faithful who, truly penitent, have confessed, and have received Holy Communion, etc.' This clause, according to another declaration, expresses the condition that confession must be among the works to be performed, and that no one, even if found in the state of grace, can obtain a plenary indulgence unless he makes a sacramental confession and fulfills the other prescribed works." "Indeed, in indulgences by which partial indulgences are granted, no mention is made of sacramental confession, but the clause 'at least with a contrite heart' is used. Hence, among some, a question has arisen as to whether the prescribed contrition is required merely as a disposition, namely, to the extent that someone is found in the state of mortal sin, and therefore incapable of obtaining any indulgence, so that, through perfect contrition with the purpose of confession, he is restored to the state of grace, and becomes capable of obtaining indulgences; or rather, whether that clause 'at least with a contrite heart' indicates a true condition; namely, that contrition itself must be considered as part of the work to be performed, so that, in order to gain the indulgence, even from those who are found in the state of grace and charity, an act of contrition must be emitted." "In order that the faithful may have a safe rule in this matter, the Sacred Congregation does not hesitate to resolve the aforementioned doubt." "The Sacred Congregation, entrusted with indulgences and sacred relics, after careful and diligent consideration, decided that the proposed doubt should be answered as follows: Affirmatively to the first part; negatively to the second part." "And after a report was made to His Most Holy Father Pope Pius IX in an audience held by me, the undersigned Cardinal Prefect, on December 17th..."

[*Latin ed. p. 389*]

DECLARATION, December 389, 1870. His Holiness approved and confirmed the Resolution of the Sacred Congregation. "Given at Rome from the Secretariat of the aforementioned Sacred Congregation on this 7th day of December, 1870." A. Card. Bizzarri, Prefect. A. Colombo, S.I., Secretary. OPINIONS OF THE CONSULTORS. Three Consultors

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expressed their opinion in writing regarding the matter presented: two Consultors arrived at the same conclusion, although they followed a different path; one, considering entirely the intrinsic nature of the formula in question, and bringing forward the Catholic doctrine concerning perfect and imperfect sorrow, finally concluded that the state of grace suffices, so that he who wishes to acquire indulgences under that clause does not require actual contrition. The other, on the other hand, approached the question by a legal method: that is, by investigating the origin and the reasons for which that clause was introduced in practice; and this method sheds more light on such questions. Therefore, the Consultor observed that in the Letters, in the form of Briefs or Rescripts, concerning indulgences, according to the current style, two clauses are usually read: 1. When it is a question of a plenary Indulgence, the formula is usually used: "for truly penitent, confessed, etc." 2. When it is a question of a partial Indulgence, it is usually prescribed that the prescribed works be performed with a contrite heart, or at least with a contrite heart. However, it is the common doctrine of theologians that, in order to obtain indulgences, the following are required: 1. the state of grace; 2. the accurate fulfillment of the prescribed works. But the means of attaining the state of grace, if it has been lost, consist either in sacramental confession, with which, according to the Council of Trent, that sorrow is sufficient which is called attrition; or in perfect contrition alone, with the vow of sacramental confession, which seems to be implicitly contained therein: "He who loves me will keep my commandments."

[*Latin ed. p. 390*]

390 DECLARATION. The Supreme Pontiffs, considering the faithful, when granting Indulgences, have always kept in mind the condition of those who are in serious sin; and they have also taught, so that all may fully understand the necessity of being in the state of grace in order to obtain Indulgences, hence the following is commonly found in such concessions: "existing in grace and charity." Therefore, the Consultor argued, it was necessary that in such concessions, in the Bulls or Rescripts, mention should be made of the two means by which the lost state of grace is regained. Indeed, it was also established for the protection of the benefits of Indulgences that sacramental Confession should be retained as an essential element, and that it should be ordered among the works enjoined for obtaining the Indulgence. Certainly, since plenary Indulgences were rarely granted in past centuries, and partial Indulgences were granted more frequently, it was required for obtaining these partial Indulgences that sacramental Confession be made; for example, many Indulgences of twenty or forty days were granted by John XXII, but always with the obligation of Confession. With the passage of time, plenary Indulgences have been granted with greater ease, and, for obtaining these, the firm

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injunction of Confession has equally remained; and even in our time, it is very rare that a plenary Indulgence is granted without the injunction of Confession. And in order to make the attainment of Indulgences easier, this work of Confession, which is enjoined, has been declared sufficient if it is performed at least once during the week (1), for all plenary Indulgences that may occur within that week; indeed, it is also granted for dioceses in which the Ordinaries request it, so that those who are accustomed to confess every fifteen days may also be able to obtain the same Indulgences that occur. Or even, due to the lack of confessors, that those who are not accustomed to confess may validly confess eight days before the feast, in order to obtain the plenary Indulgence on the feast day (2). (1) Compare the Decree which I cited on page 497 et seq., and also the Decree which I cited in Volume I, page 446 et seq. (2) Here, the Consultor alludes to the Decree of the City and the World, promulgated on January 12, 1822, which is worded as follows: "Since..." not a few..."

[*Latin ed. p. 391*]

DECLARATION. It cannot be doubted that the Church, which desired to pave a clear and easy path to the attainment of plenary Indulgences, also intended to make the attainment of partial Indulgences easier, which are also much more frequent and, due to their easy execution, such as vocal prayers. It is therefore to be presumed that, with the multiplication of plenary Indulgences granted, while the sacramental confession required to obtain them remains, a similar requirement was omitted for obtaining partial Indulgences, provided that the necessary disposition of being in the state of grace always remains. This presumption was confirmed by the Consultors, who stated that the practice has prevailed of including in the grants of partial Indulgences a clause: "in the usual form of the Church, which has been elevated by the supplications of the faithful, especially from Gallia, due to the lack of confessors, granting the faculty of performing sacramental Confession for several days before the Eucharistic Communion in order to acquire Indulgences;" and also that it should be explained "whether it is permissible to attend the Holy Sacrifice on the eve of the feast day for which the Indulgences are granted." The same Holy Congregation, convened in the Quirinal Palace on April 15th of the preceding year, after hearing the votes of the Consultors and mature deliberation, decided that it is permissible to receive the Eucharist on the eve of the feast day for this purpose; and in response to the requested clarification, it declared: "Firmly remaining is the Decree of December 9, 1631 (this Decree is found on page 198 in the notes) for those faithful who go to confession at least once a week; but for those faithful, in places where the faithful cannot frequently perform sacramental Confession, it is desired that this Decree be communicated and, after consultation with the Most Holy Father, be extended to all Christians of both sexes, so that Confession performed within

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the week before the feast day may contribute to obtaining the Indulgence, provided that all other prescribed conditions are fulfilled, and provided that no mortal sin has been committed after Confession, without altering anything regarding the Indulgences granted in the form of the Jubilee, as stated in the aforementioned Decree of December 9, 1631." After consultation with the Most Holy Father in an audience held by me, the undersigned Secretary, on June 11, 1822, His Holiness benignly approved the vote of the Holy Congregation and ordered it to be published, Rome, etc., June 12, 1822. Regarding this Decree, a doubt was raised in Mechlin on December 15, 1841, expressed in these words: "Do the words 'within the week' mean only eight days, which immediately precede the feast day; or do they mean the entire and complete week in which the feast occurs, so that, for example, a Confession made on Sunday would contribute to obtaining the Indulgence on the Saturday of the following week in which the feast day falls, even though fifteen days would have intervened between the Confession and the feast day?" To this, the Holy Congregation responded: affirmatively regarding the first part; negatively regarding the second.

[*Latin ed. p. 392*]

392 DECLARATION. The same phrase has been repeatedly used; for he testified that he had consulted numerous documents in the form of briefs, from the year 1600 to the year 1700, in which, for plenary indulgences, the clause "vere poenitentes confessi, etc." could be found; whereas, for partial indulgences, the clause was either in the usual form of the Church, or even absent altogether. He inferred that this clause, or even the absence of this clause, had been replaced by the phrase: "with a contrite heart, or at least with a contrite heart," etc. Therefore, the Consultor judged it to be highly probable that the phrase "with a contrite heart" signified nothing other than what was expressed in another formula, namely, in the usual form of the Church, which indicates the customary dispositions necessary for obtaining an indulgence, the first of which is the state of grace, then the intention of obtaining the Indulgence, devout recitation, and if there is anything else of that kind. And from this, he affirmed that if the act of perfect contrition were required each time for obtaining a partial Indulgence for those who have already been in the state of grace, a condition would be imposed that is not found to be imposed for obtaining plenary indulgences; since, for these, it is not necessary that, after having completed the sacramental Confession, the act of contrition be repeated for each plenary Indulgence obtained. Therefore, under this aspect, the attainment of partial Indulgences would be made more difficult. Therefore, he concluded that, through that phrase, "with a contrite heart, or at least with a contrite heart," nothing else seemed to be signified than the primary and necessary disposition for obtaining an Indulgence, namely, the state of grace. As if the Pope were saying: "Although I do not compel you to perform the

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sacramental Confession; nevertheless, know that you cannot obtain such a partial Indulgence unless you are in the state of *gottesgnaden*; therefore, if you are not in this state of grace, at least take care to be in it through the act of perfect contrition, before you perform the work prescribed, to which a partial Indulgence is attached."

FROM WHICH IT MAY BE GATHERED:

I. That among the things required for obtaining Indulgences, there are dispositions, and there are also works prescribed, by which works the Indulgence is attached.

II. That among the dispositions, the state of grace holds the first place: for Indulgences do not remit eternal punishment; but only temporal punishment.

[*Latin ed. p. 393*]

DECLARATION. 393. The temporal punishment due for sins must be paid either in this life or the next; therefore, grave sins, if any, must be remitted, and consequently, the state of grace must be restored. III. In granting plenary indulgences, it is customary to prescribe the very act of sacramental Confession as a required work; and if this is omitted, one will not gain the indulgence, even if he performs all the other prescribed works while being in the state of grace. IV. In granting partial indulgences, sacramental Confession is not usually prescribed; but rather, contrition of heart is commonly indicated. V. Such an indication or command does not signify a required work to which the benefit of the indulgence is attached; but rather, it is a means, or a subsidiary, in place of sacramental Confession, which cannot be performed in actuality, for the purpose of attaining the state of grace. VI. Therefore, the formula should indicate, at least in the heart, the necessity of striving, in whatever way possible, to attain the state of grace, without which indulgences cannot be gained. VII. Therefore, for those who are already in the state of grace, it is not necessary to express an act of contrition in order to gain indulgences (1).

(1) One might further inquire: what if someone, in gaining a plenary indulgence, fulfills the requirement of sacramental Confession as a prescribed work, but nevertheless commits a grave fault by failing to fulfill the other conditions within the allotted time? Should he necessarily repeat the sacramental Confession in order to obtain the indulgence, or would it be sufficient to express an act of perfect contrition? It seems that it is sufficient to elicit an act of contrition, provided that among the works which he has not fulfilled, he does not receive Holy Communion; for the latter would require sacramental Confession for a more urgent reason. The reason for this appears to stem from what has been stated above: since satisfaction has been given to Confession as a prescribed work, it remains only for the

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sinner to place himself in the state of grace, which he can achieve through perfect contrition, containing a vow to perform sacramental Confession as soon as possible. This appears to be confirmed by the Decree of the Holy Congregation, issued in Mechlin on December 15, 1841: to a question formulated in these words: "Is it necessary, when in a Bull or Brief in which an indulgence is granted, Confession is prescribed as a condition without which it cannot be obtained, that sacramental absolution be given to the penitent in order to gain the indulgence?" The Holy Congregation responded: negatively.

[*Latin ed. p. 394*]

From S., Congregation of Bishops and Regulars. CONCORDIA, 2 September 1870. Summary of the case. In the year 1855, Titius, in his will, bequeathed to his heirs the obligation to choose, and to renew during vacancies, perpetually, four priests of known probity, to whom they should provide suitable lodging, and who, according to his intention, should celebrate Mass daily in the oratory assigned to each of them, teach Christian doctrine to the poor, assist the sick, and provide assistance to the parish priest in matters pertaining to religious worship. Furthermore, he wished that whenever, by any provision of the law, such a bequest or part thereof could not take effect, the portion that could not be put into effect should revert to the assets of the inheritance and be added to the inheritance of the heirs. Following Titius's death and the publication of his will, the heirs declared themselves ready to carry out his wishes. However, the Bishop, seeing that the execution of this provision was fraught with difficulties due to the lack of priests, proposed to the heirs to maintain only two chaplaincies, suppressing the other two; in their place, an annual revenue of 2800 livres would be provided: of this sum, 800 livres would go to the parish priest, and the remaining 2000 livres would be assigned to the Institute of Christian Schools and the Congregation of St. Philip Neri for the education of poor children. The necessary permissions were requested from the Holy Father, and were graciously granted in the year 1859. At that time, this partial modification of the will can only mean that, through Confession, satisfaction has been made for the obligation imposed, although the sinner may not have obtained absolution; nevertheless, he remains obligated to seek the state of grace through perfect contrition, if he wishes to obtain an Indulgence. However, my opinion cannot be invoked when someone makes use of a general Indult, confessing his sins before the prescribed time; for in these Indults, the condition is: "provided that no mortal sin has been committed after the Confession." Compare the aforementioned Decree, page 199, in the note, and another one mentioned

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above, page %% and 391, in the note.

[*Latin ed. p. 395*]

CONCORDANCE. 395 was considered complete; however, the formal written agreement was still lacking, and this was delayed because the Bishop was required to settle the matter with the Christian schools' institution. Meanwhile, perfidy occurred in that Kingdom, and the law was promulgated, by which it was prescribed that the *regium* should be followed regarding ecclesiastical provisions, and that testamentary dispositions made to ecclesiastical institutions should be subject to the approval of the *regiae*. With these circumstances arising, the parties agreed to formalize the agreement with a private document, awaiting the time when legal formalities could be employed. But two new decrees of that Government then appeared, by which the *regium* was to be followed regarding ecclesiastical provisions with a new prescription, and the Christian schools' institution was completely expelled from the Kingdom. At that time, the heirs informed the episcopal curia that it was impossible to fulfill the pious bequest under these new laws, and that the resolutory clause expressed in the will should be upheld. This opinion gained new strength from subsequent, equally harsh, laws of that Government, by which religious orders, chaplaincies, and ecclesiastical benefices were suppressed. However, the matter was pressing for the Bishop, so a new agreement was composed between him and the heirs of Titus, and a settlement was stipulated on November 28, 1868, with the reservation of Apostolic approval, which the Bishop sought from the Sacred Congregation for Bishops and Regular Canons. In this same agreement, carefully crafted to mitigate the effects of civil laws, mention was made of those same laws; as if the testator's bequest had ceased by force of these laws: therefore, the bequest of Masses was stated as if it were placed at the discretion of the heirs, and the property of the entire bequest for the education of children, etc., remained with the heirs, while the usufruct remained with the Bishop for the time being. Due to certain observations made on both sides regarding this proposed agreement, the matter was brought before the Sacred Congregation under a formula of such doubt.

[*Latin ed. p. 396*]

396. CONCERNING AGREEMENTS. A question: "Whether and how the proposed agreement should be approved in this case." ANSWER. The Holy Congregation of Bishops and Regular Canons, having considered the matter on September 2, 1870, responded: "With the understanding that: the intention is to draw up a good-faith agreement between the parties involved, from which it is clear that, notwithstanding what has been said concerning the reservation of ownership of the property to be invested

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in favor of the heirs (N.N.) and concerning the manner of fulfilling the obligations of the Masses; said property pertains to the Church, and the obligation of the Masses is strictly obligatory and not optional. Furthermore, it should be added to the same agreement a declaration stating that, due to the aforementioned circumstances, only certain laws, which have been enacted by the Government (N.) against the Church, are mentioned in the first article of the agreement; because otherwise, no mention would have been made of them, since they possess a harmful and invalid force and effect." FROM WHICH IT MAY BE GATHERED: I. Civil laws enacted against the Church lack all force and validity. II. Civil authority has no authority to enact laws concerning the rights and affairs of the Church; therefore, whether these laws are favorable to the Church or are adverse, they are, by themselves, devoid of all force (1). (1) This is a principle of canon law, which spontaneously flows from the principles of public law; and it is found in the Decretals, in accordance with the tradition of the holy canons; it is also important to mention the Rescript of Innocent III, which is found in chapter 10, concerning Rescripts, where the Pope revoked, by the force of civil law, an order for the execution of matters concerning the Church, thus stating: "We consider that laymen (even religious) have no authority over churches and ecclesiastical persons: they are bound to obey, but not to command; and that if anything is decreed by them of their own accord, which also concerns the benefit and favor of the churches, it has no validity unless it has been approved by the Church. Therefore, the decree of Basil, concerning the non-alienation of rural or urban properties, monasteries, and ornaments of churches, was disapproved for the most important reason, namely, that it was not strengthened by the authority of the Roman Pontiff. And that which was done by the Senator, concerning the monastery, which was not conventual nor confessed or convicted, and which declared those possessions invalid, we hereby sentence to be revoked, and we definitively order that those possessions be restored to them." But it often happens in matters of law and in the affairs of the Church that civil laws are opposed by...

[*Latin ed. p. 397*]

397 III. Wherefore, in the matter of a pious endowment, it was not resolved by the force of civil laws that it should be dissolved, although the testator had stipulated it, unless it could be determined that, by some provision of the law, it could not be carried into effect in favor of the heirs. IV. For the testator did not connect the resolution of the endowment with the outcome of the laws, which might, by chance, abolish it; but rather, with the impossibility of its being carried into effect by the provision of any law whatsoever; lest his goods should pass into the hands of others without the satisfaction of the endowment. V. Wherefore, with such a state of mind on the part of the testator, the obstacles arising from civil laws should

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have been overcome by the heirs, in whatever way they could. VI. Nor can such a modal transformation of the endowment, made in the urgency of circumstances, be called a change of will in the legal sense; but rather, an execution of the will, as circumstances might dictate (1). CONCORDIAE. Are invoked: but everyone sees that they are invoked, not so that they may be admitted as laws with inherent value; but so that they may be freed from a more grievous vexation in the matter itself by those very laws. For if anyone were to claim something contrary to the statutes and canons, yet by the force of civil law, he would unjustly and invalidly retain it; since no title can civil law confer, by which anyone may enjoy the rights of the Church. (1) I believe this has happened because the Holy Congregation did not add the customary mandate, *factum est verbo cum SSmo.* For when it is a question of changing the will of the pious testator, knowing the causes for a just change, the Most Holy Congregation commands its Secretary to report the resolution to the Most Holy Father, so that if he wishes, he may approve of that change; for it is not within the power of the Holy Congregation to change or even to abrogate the will of the pious testator. For the will of the pious testator has the force of law, to which no one can derogate except the Pope. But in some matters, a change of will made by the authority of the Pope, even when it had already occurred, was later imposed by circumstances, so that the endowment, as far as possible, might be preserved, and thus returned to the observance of the endowment. Concerning this matter, Cardinal De Luca wrote in *Annotations ad Conc. Trid*, disp. 21: "Improperly, however, this term <commutation> seems to be used; for when the impossibility of fulfilling what the testator wished is established, a supplement or substitution, rather than a commutation, seems to be more appropriate, lest, otherwise, the disposition should be rendered void, from the just reason that the pious disposition is primarily directed to God and to one's own soul, while one or the other work is said to be accidentally destined, so that where it is possible to preserve the will of the deceased, it should follow; and where it is not possible, it should follow; in that in which it can follow. Commutations, however, are those which contain a complete change for the will or the judgment, even in cases in which it is possible to fulfill it in the way desired by the testator, so that they seem to resemble a dispensation or derogation."

[*Latin ed. p. 398*]

NULLITY OF TESTAMENT. September 2, 1870. Summary of the case. At the beginning of this century, a certain Livius, by birth a Spaniard, made his solemn profession in the monastery of the Brothers Minor of St. Francis of Paula in Hispaniae, and was subsequently transferred to Rome. It is not certain whether, before his religious profession, he renounced the goods that belonged to him, present or future; it is certain, however, that his father and mother, while still living, appointed Livius Religiosus, along with his

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other sons, as their heir. Upon learning of the death of his father, who died in the year 1821, Livius wrote to his testamentary executor, requesting that he ascertain the value of his share, at the same time informing him that he would not cause any trouble. In the following year, 1822, his mother also died, who, in her will, also appointed Livius Religiosus as her heir, and added this clause to her will: that the hereditary portion of Livius Religiosus should remain with the testamentary executor, until Livius Religiosus should dispose of it. At the time of the death of his father and mother, whether Livius had already put on his religious habit or not, it is not entirely certain from the documents presented in the case. It is known, however, that in the year 1825, he petitioned the Sacred Congregation over Regular Discipline, in order to obtain the faculty of disposing of those goods which belonged to him through his priestly labors or by any other lawful means; and in the same petition, he stated that he had already been granted a perpetual Apostolic Indult of secularization. These petitions were rejected by a decree, granting the requested permission, provided that he left a bequest in favor of the community where he had caused more delay, or of some other community in his province. After these events, it is sufficiently established that Livius acted as the owner of his own affairs. Indeed, in the year 1845, invoking the civil law of Hispaniae, which was enacted in the year 1837, and which granted religious of both sexes equal rights in civil matters, he claimed the goods that came to him from the inheritance of his parents. Therefore, in the year 1864, he drew up a will, in which, among other things...

[*Latin ed. p. 399*]

Regarding the validity of the will, the following dispositions were ordered concerning his property in Hispania: a chapel with the obligation of daily Mass was to be established by the Archbishop N., and to be endowed with funds. Upon the death of Livio, his nephews, being the sole surviving heirs, presented a petition to the Sacred Congregation of Bishops and Regulars, in which they argued that Livio, at the time of the death of his parents in paternae, could not have acquired hereditary property, since he was a religious; nor had the Regular community, to which the inheritance might have belonged, ever made any claim; and they requested that the Holy See would resolve the matter before the aforementioned chapel was established. These requests were sent to the Archbishop N. for information and his opinion, so that he might hear both sides and determine whether the petition infringed upon the rights of others. After considering all matters, he issued his opinion in favor of the validity of the will, and among other things, noted that Livio's parents had certainly known that he was a religious, and had designated him as a co-heir to their property along with his other children; from which it could be inferred that they intended Livio to have a share of the inheritance, either for his own use, with the

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permission of the superiors of his Order, or so that he might be supported if he were forced to live outside the cloister, as seemed likely at that time. The Procurator General of the Order of Saint Francis of Paula was also consulted, who declared that, since there had been no Minim community in Hispania for a long time, since the time of its suppression, he had nothing to object to regarding whatever the decision of the Sacred Congregation might be.

A brief discussion.

THOSE THINGS WHICH ARE OBJECTED TO THE VALIDITY OF THE WILL *EX OFFICIO*. He who, *ex officio*, writes to propose consultations to the Sacred Congregation, notes that, according to common law, whoever makes a solemn profession in any approved religious order, changes his status and immediately passes into the full power of the Regular superiors; Ferraris, *Bibliotheca Canonica*, at the word "Regularis professio," 10(i); therefore, the professed is to be considered equivalent to a slave or a serf, who in some way does not have his own person; although the Regular profession does not destroy the bonds of blood and succession, nevertheless...

[*Latin ed. p. 400*]

400. OF THE INVALIDITY OF A TESTAMENT. He had transferred all his rights to the monastery; therefore, according to the rule of law, "Whatever a monk acquires, he acquires not for himself, but for the monastery," as stated in chapter [omitted], concerning the status of monks, Council of Trent, Session II, on Regular Canon, chapter 2; Clement VIII, Decretals, on the Reform of Regular Canons, Nullus omnino, § 2. In fact, assuming the existence of the renunciation, as the petitioners asserted, Livius had passed into the power of the monastery, and had transferred no rights of his own to the monastery, and therefore, the monastery could not have acquired anything. Given these premises, it is prescribed that no one can acquire through a testament who does not have, at least passively, the power to make a testament, that is, the power to acquire, as stated in the Institutes on the qualities and differences of inheritances, § [omitted]. Furthermore, in the writings of Justinian, it is stated: "In the case of lay heirs, it is observed that there must be a testament made with them..." and this is examined in two respects: first, to determine whether the institution of the testament has been established, and second, to determine whether it has effect after the death of the testator. Voet, in his commentary on the Pandects, book 2, title 5, number 21, and others, state this. In fact, it is established that Livius, at the time of the drafting of both testaments, and at the time of the death of both parents, had already solemnly professed, and, as the petitioners asserted, had already remained in the monastery, and therefore, had no power to make a testament; therefore, neither Livius, acting as a private individual, could succeed, nor could the renunciation be valid, because the existence of the renunciation prevents the monastery from acquiring

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the rights; this demonstrates that, in a true renunciation, even future rights are renounced, so that the same portions of the inheritance, as if virtually included in the renunciation, are increased for the heirs instituted. However, even if we assume that the renunciation does not exist, or that it does not include the goods acquired after the renunciation, these inheritances must still pass to the monastery, so that Livius, simply claiming them for himself, would unjustly acquire them. Therefore, it is unjust for Livius to claim these inheritances as his own, and it is even more unjust for him to dispose of them, as if he were not subject to the law, and for them not to devolve to the religious institution as heirs. Livius has obtained the Indult of Secularization, but from this, it cannot be inferred that he has the capacity to acquire; for the rule of law is that capacity exists outside the law.

[*Latin ed. p. 401*]

Regarding the nullity of a testament, paragraph 4 of the decree concerning Albanen, dated December 9, 1822, § 5, before Gamberini and others. Furthermore, if the capacity arising subsequently prejudices the rights of others, the Rota states (citing *de Luca de Renunciat.*, discussion 17, n. 17, where it is written: "We see the same effect, as the Most Holy Rota has observed, so that this restitution to the secular world, which proceeds from the Pope, should not look backward, nor take away the right of a third party, unless the explicit will of the testator is added, as is the case with those matters which are treated under the title *de Regni* etc.; the Pope has the power to take away the right of a third party, but it should not be presumed in any doubt"), but always a grace or another act of the Prince should be understood without prejudice. Finally, as to the perpetual secularization granted to Livius, it was obtained only through the prayers offered to the Holy Congregation in 1825; but such a grant was never explicitly made, nor was its extension noted, and it always contained the customary clause, by which permission is given to live outside the cloister, but with firm vows remaining, compatible with the new status; therefore, by virtue of this grant, he could not acquire and possess goods (which would be contrary to the vow of poverty) without a new and necessary dispensation, as daily practice of the Holy Congregation demonstrates. If, in 1825, Livius obtained the faculty to make a will or to dispose of things, and therefore, if such a faculty implicitly contained another, namely, the acquisition of goods, it was nevertheless limited to those goods which belonged to him through his sacerdotal labors or any other lawful means: the Pontifical grant made no mention whatsoever of portions of the inheritance; nor can the lack of such a mention be supplied by presumption; on the contrary, the presumption is to the contrary, either to avoid prejudicing the rights of others, or because of the clauses customarily added to such grants, provided that we are not dealing with goods specifically included in a renunciation; or because of the faculty, which is repeatedly granted, to enter into inheritances, with

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the obligation imposed by the grant to dispose of them for those to whom the goods belong by virtue of the renunciation.

WHAT WAS NOTED REGARDING THE VALIDITY OF THE TESTAMENT. It is noted, *ex officio*, that a renunciation is an act performed with free will (Acti, vol. VI, fasc. LXVIII, 26).

[*Latin ed. p. 402*]

02. THE VALIDITY OF THE TESTAMENT depends on the will of the testator, as declared by the Holy Congregation of Bishops and by the Decree of April 31, 1756. Indeed, since the validity of this act is not presumed, but must be clearly proven, both in general and in particular, and whether it is a will of translation or of extinction, so that what follows may be known. Even if it were proven in general that a very broad renunciation was possible, in particular, there is always an obstacle to the legal criterion by which it is accepted, such that even the most extensive renunciations do not include intestate inheritances, but only those that are made by will, as stated by Marin, lib. % resol. 194, Surd. decis. 14, Rota decis. 543 part. 5 recent. However, nothing of this kind is alleged by the parties, and nothing seems to prevent the succession, at least by will, in the goods of the parents, if not in the person of the Religious Livius, but in the person of the monastery. But afterwards, the monastery was excluded from the succession because Livius obtained a perpetual Indult of Secularization: for by virtue of this Indult, as the monastery itself declares, it also seems to recover its legal personality with regard to rights of blood and succession, in much the same way as, according to Roman jurisprudence, captives who return to their homeland recover all rights suspended by captivity, *[reference to Roman law]*: 32 § 1 ff. de haered. instit., where it is written: "He who is among the enemies is rightly instituted as heir, because by the law of homecoming, all the rights of citizenship are retained in his person, although suspended." Card. de Luca de fideicom. disc 68 n, 22, and others. However, since a Religious who has made profession is not only not capable of acquiring anything in his own person while he remains in the monastery, but is also under the authority of his superiors even outside the cloister, by virtue of the perpetual vow of poverty, the Indult of simple secularization may indeed have helped Livius with regard to the use of rights recovered by being removed from the authority of the Regular superiors; but not with regard to full possession and free ownership; for this purpose, a new dispensation from the vow of poverty was necessary, as stated by Pyrrus Corradus in praxi dispens. I. 10 c. 4 n. 1, Card. de Luca de testament, disc. 9, and others. But Livius, in addition to the Indult of secularization, also obtained the faculty to make a will or to dispose of those goods that were his.

[*Latin ed. p. 403*]

The testator's will clearly indicates that the ecclesiastical goods, includ-

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ing the chaplaincy, were intended for the benefit of the testator's heirs, and that they were to be acquired through their own efforts, either through ecclesiastical duties or any other lawful means: this faculty, although it does not explicitly mention the right of acquisition, nevertheless implicitly presupposes it! From this, it can also be inferred that the right to acquire these goods had already been granted to Livius with the very secularization grant. Therefore, although Livius could not acquire rights that might already have been acquired by others (for it is not presumed that the Holy See intends to infringe upon the rights of others through grants), he nevertheless had the power to acquire what belonged to him, which was not granted to others, as Barbosa de iur. eccles, univ. I. l. c. 42 n. 247, and others, state. Indeed, the hereditary portions, both paternal and maternal, of Livius, were not acquired by the monastery at the time of the grant. Nor could the maternal hereditary portion be ceded to the monastery by Livius, who wished to do so, due to a clause added to the will, until Livius had made a decision regarding it. Therefore, there seems to be no doubt that Livius was able to acquire his portions and to establish a chaplaincy with them. Finally, if, by hypothesis, exceptions were to be admitted for the benefit of those who are suing, these exceptions would not be valid in the case of those same plaintiffs. For either the validity of the dispositions of Livius's parents would have to be challenged, or the right of Livius himself to acquire the inheritance would have to be challenged. In the first case, the judgment of the testators, already accepted by the plaintiffs, would have to be challenged, which could not be done, as stated in I. 10 ff. de inoff. testam.: "It is well known that he who has received a legacy cannot rightly speak of an inefficacious will, unless he has administered the whole of it to another." Also, in I. 5 ff. de his, quae ut indignis. In the second case, the monastery, by introducing the exception of the right of a third party, would be bringing the rights of the monastery into the matter, which would have no value against the possessor, as stated in I. 53 ff. de acquir. vel amittend. poss.: "A bad possession is usually beneficial to the outsider," and elsewhere. If a judgment were to be rendered against Livius, it would be understood that the right over Livius's portions was being granted to the Religious Order of the Minim Friars, and not to the plaintiffs. Nor could prescription be raised against the rights of the Minim Friars, let alone a renunciation made by the General Procurator; provided that, all other things being equal, prescription does not run against one who is ignorant and incapable of acting. And a renunciation of a right that belongs to a Religious Order carries with it the appearance of alienation, which, without the proper formalities, is...

[*Latin ed. p. 404*]

Regarding the validity of a testament, whether written or contained in the constitutions of an Order, or arising from common law, it possesses no value. Considering these and other observations, the following question

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is to be resolved: "Does the rule concerning the nullity of testamentary dispositions apply to the institution of a chaplaincy, or to what extent is the validity thereof affected in this case?"

RESOLUTION. The Holy Congregation of Bishops, having knowledge of the case, on September 2, 1870, decided: "In all respects, no. The Archbishop should ensure the execution of the testator's will, and should inform [the parties involved] accordingly."

FROM WHICH THE FOLLOWING MAY BE GLEANED:

I. Generally, a renunciation of goods, whether in general or in specific terms, is not presumed to have been made before the solemn profession, but must be clearly proven (1).

II. However, if a renunciation of goods has not been made, the goods of a professed religious person pass to the monastery by law, provided that the monastery has the right to possess them.

III. The same is true, whether the goods in question pertain to the profession itself, or are adventitious goods.

IV. When a professed religious person leaves the Order, and is therefore released from the authority of the Regular Superiors, he has, by right, the power to reclaim his own property before those to whom it has been transferred, and to use it for his needs.

V. He may recover his legal personality through secularization, and, by civil law, he will possess the rights of blood and inheritance that he had before acquiring this status; nevertheless, he cannot possess the property of the goods due to the vow of poverty that hinders him, even after the Indult of Secularization.

(1) What is the legal situation if it should be proven that a renunciation was made in general and in specific terms of patrimonial goods in favor of the brethren? Could Livius, having been released from the monastery, legally claim these patrimonial goods? It seems possible: the reason is that the cause of the renunciation ceased with his departure from the Religious life; and with the cessation of the cause of renunciation, the renunciation ceases with regard to those goods which have not been transferred to others, and which, as it were, remain in suspense, especially given the will of the testators, who instituted Livius, although they knew him to be a professed religious, as a co-heir. Compare the Resolution of the Holy See concerning a Regular person elevated to the episcopate, which is found in vol. 1, page 227, in a note; however, it does not seem that this Resolution can be fully applied to the present case.

[*Latin ed. p. 405*]

405 VI. Wherefore, in order to possess goods beyond those necessary for

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honest sustenance, and also to have the power to dispose of goods, especially through a will, it is necessary for a secular Regular Canon to obtain other Pontifical Indulgences; which appear to be certain partial dispensations from the vow of poverty, and which are subject to strict interpretation (1).

VII. In the case of Livius, a secular Religious, he was able to claim patrimonial goods, since they had not been acquired for the monastery nor for his brothers, and he was able to make use of Apostolic Indulgences concerning them, and to dispose of them, either through a will or by other means, according to the tenor of the Indulgences.

VIII. Likewise, when his Religious Order was extinguished throughout all of Spain, he disposed of his goods through a will, establishing a chaplaincy for his relatives, thereby defrauding neither the Church nor his family.

EX S. S. DECRETORUM, September 3, 1870. Summary of the case. In the Abbey of N., belonging to no diocese, there exists a town, L, in which there formerly existed six sodalities, of which only the titles remain, and their nature and character are unknown. It is not certain whether they were canonically erected, whether they had statutes, whether the members wore a specific habit, or whether they constituted a moral body. It is certain, however, that obligations for Masses and certain pious institutions remained under various titles of these sodalities: these obligations were fulfilled by priests appointed by the Abbot, using certain funds and revenues.

(1) Compare what I have written in vol. IV, pp. 388 et seq., concerning secular Regular Canons before the Church, where I have discussed the rights of a secular Regular Canon.

[*Latin ed. p. 406*]

406 DECREES. In the year 1828, from these sodalities, two, which were under the titles of Saint Mary of Angelorum and the Most Holy Rosary, were granted to the cleric Sempronium, in the title of Saint Ordination, with an endowment of property, by the Abbot, through an abbatial bull containing these words: "Concerning the chaplaincy at the altar of the Most Holy Rosary in the parish church of the territory of L, under our jurisdiction, and also the parish church of Saint Mary of Angelorum in the aforementioned territory, the collation, provision, and in every way the disposition of which, whenever they become vacant, pertains to us; just as the Reverend Father Anthony P., while he lived, possessed, and, upon his death, they became vacant, and are now reported to us; we, wishing to favor our beloved cleric (Sempronium), who has been established among us in the minor orders, having been commended for his sufficient knowledge of letters, his moral honesty, and other merits, with a view to this, we grant, with favor, the chaplaincies of the Most Holy Rosary and of Saint Mary of Angelorum, which are now vacant, the annual revenues of which, in

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total, amount to thirty scudi, to the aforementioned cleric Sempronium, with all rights, honors, burdens, and emoluments, by our authority and in every other way that we can, by these presents, we grant, assign, and provide, until and as long as he serves in the parish church to which he was assigned upon his ordination. But if, by his own judgment, he should devote himself to another place, and should abandon the former church and assume another, he shall immediately be deprived of the possession of the chaplaincies, and provision shall be made for his sustenance by another title."

However, in the year 1847, the then-ordinary Abbot, in a supplication presented to the Sacred Congregation, having described the state of all six sodalities, or rather, having explained the burdens and revenues of the same, indicated that the revenues and goods were generally dwindling, that they were given by the Abbots for the administration, and that the priests would resolve these matters with alms and Masses; but that the meager revenues no longer corresponded to the burdens. Therefore, he made known his plan to erect these so-called sodalities into six chaplaincies, to be conferred by the Ordinary with ecclesiastical right, so that they might administer and receive the full revenues, with the condition imposed that all burdens be fulfilled which were attached to them. He also indicated that no one was opposed to this, and he supplicated for Apostolic approval. Such prayers having been received, it happened that the Sacred Congregation...

[*Latin ed. p. 407*]

DECREES. The Congregation of the Council has decreed that, 407, the Ordinary Abbot should manage this matter, and should determine and decide whatever he judges to be most expedient for the glory of God. The Ordinary, adhering to this decree, immediately decreed the suppression of the sodalities, and at the same time established chaplaincies with certain conditions attached. In the same decree, it was stipulated that the revenues and income which were to be allocated to the benefit of the chaplaincies, as had been the case since the year 1847, should still be collected, so that the chaplain, who was to be appointed as a delegate of the Ordinary, should pay the amounts due, which were not yet collected from January 1, 1845, and, after deductions, the remaining income should be used for the restoration of the funds or altar pertaining to the chaplaincy, with the obligation to render an accurate account of these matters to the Ordinary. For the revenues which preceded the year 1845, the Ordinary reserved the right to manage them, so that all pious contributions and any other funds should be used for the extinction of debts and the restoration of the funds, or for other purposes. However, the chaplaincies of Saint Mary of the Angels and of the Most Holy Rosary, which had already been conferred upon Sempronius, as we have seen, were again conferred upon him by the Ordinary, who declared them to be revocable at his discretion, even without cause. But

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Sempronius, who had obtained these chaplaincies with an endowment to supplement his patrimony, in the title of ordination, with all rights, honors, burdens, and appurtenances, considered that no prejudice had been done to him, nor could be done, by this new conferral, and he was certain that he was not bound by the conditions of the new establishment. However, the Ordinary Abbot who was in office in the year 1863, upon conducting a canonical visitation of the new establishment, found that Sempronius had not complied with the laws, and therefore deprived him of the administration of the chaplaincy of Saint Mary of the Angels, and entrusted the administration of the goods of Saint Luke to another. This concerns the chaplaincy of Saint Mary of the Angels. As for the other, the Most Holy Rosary, the current Ordinary Abbot, together with the General Vicar, conducted a canonical visitation in the year 1868, and the Vicar saw that Sempronius had collected the revenues from the Masses, but had never rendered accounts: % altar.

[*Latin ed. p. 408*]

408 DECREES. It has become apparent that the endowment of the Most Holy Rosary is dwindling and becoming dilapidated, and that all sacred vestments are to be removed from use. Considering that, according to the laws of the first and second establishment, the income of the chapel should not be given to the administrator, but rather should belong to the chapel itself; the term of two months was set for Sempronio to present accounts, and for the treasurer of the pious foundations to deposit any surplus income. Otherwise, his office would be considered revoked, although in no way would his rights over the same chapel, acquired when he was established in the title, be infringed, since he had been established in favor of the Order. Since Sempronio did not comply with these orders, anonymous complaints were made by some townspeople, as it appears (who claimed to be surviving members of the Most Holy Rosary), against Sempronio, accusing him of appropriating all the goods, and not restoring the decaying buildings and sacred furnishings, and not returning the surplus income, contrary to the Decree of the Ordinary. These complaints, having been repeated twice and sent to the Ordinary for information, the Ordinary proposed the following questions to the Holy Congregation for resolution: "Whether the establishments made under the authority of the year 1847 are chapels with the obligation to offer as many Masses as they can sustain, so that any surplus income should be given to the chapel; or rather, whether they are benefices, so that, after the expenses are paid, the remainder should go to the administrator." The discussion is "inoptiea." THOSE MATTERS WHICH ARE, BY OFFICE, REPREHENSIBLE FOR MAINTAINING THE ORDINARY'S DECREES AGAINST SEMPRONIO. It has been determined by law that administrators of churches and pious foundations must render an account to the Ordinary, according to Clementines, Quia contigit §, as

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is the case with religious houses; Council of Trent, session 22, chapter 9, concerning reform, and in accordance with the constant practice of the Holy See. Administrators can be suspended or removed from the exercise of their office as many times as they refuse to render an account, or fail in this duty through negligence or deceit, as Pignatelli wrote among other things in Consult, can. tom. 8, consult. 17, § 9: ”Since, by the Holy Council of Trent, chapter 9, session 22, concerning reform, it is established that administrators are obligated...”

[*Latin ed. p. 409*]

DECREES. 409. To render an account of the administration to the Ordinary of the place, setting aside any privileges or customs to the contrary, it is stipulated that if he refuses to render accounts, or if he has acted fraudulently in the administration, or if he has been negligent, or has otherwise failed, then the Ordinary, for reasons proven by law, may remove him from the administration; otherwise, the power granted by the Council to the Ordinary would be futile. Furthermore, Ferraris, in his *Bibliotheca Canonica*, under the word ”Administration,” states this. Therefore, Sempronius was already obligated to render accounts, and consequently, he could have been removed for refusing to do so. Moreover, it must also be considered that from the year 1828 to the year 1847, he could have been considered a simple administrator of the goods belonging to the sodalities, since these were not yet legally suppressed; and also that in the year 1850, a decree was issued that each chaplain should have a book in which the assets should be accurately described, along with the status of the revenues; a decree to which Sempronius did not comply. Furthermore, Sempronius not only never presented such accounts, but also acted fraudulently in the management of his administration: he disregarded the law of the second erection, according to which the surplus revenues should be allocated to the benefit of the chapel; therefore, he was rightly and justly removed from the administration of the chapel of Saint Mary of the Angels, and is now being deprived of the administration of another chapel. However, it is irrelevant that the chapels were assigned in the year 1828 to the title of Saint Ordination, with a supplement to the endowment; since it can be doubted whether the very constitution of this title was legitimate, as Moncelli writes in *Formulæ Legales*, in the appendix to the 1st part: ”Because, as a rule, dioceses are not abundant in benefices, but have few or small revenues, Bishops often inquire whether perpetual chapels, which are frequently left without formal erection, with their endowments and the obligation of frequent Masses, can, with the authority and decree of the Ordinary, be considered, at least in a broad sense, as benefices, so that someone may be promoted to their title, even if necessity or the benefit of the Church does not concur. And it seems that the answer is no; because these chapels are called pious legacies, and their goods are considered secular, as affirmed

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by the Rota before Dunozzetlo the younger."

[*Latin ed. p. 410*]

410 OF DECREES. » decrees 101, paragraph 1 and 2. And the reason is, because they are not granted as ecclesiastical goods by the sacred ministry and spiritual law, but for works performed and Masses celebrated, as a reward and salary, chapter Clerici quaest. 3, nor do the substantial requirements concur for constituting an ecclesiastical benefice, about which you have information in Gonzalez ad regid. 8, gloss. 5, paragraph 6 and following (1). In the matter of the chaplaincies granted to Sempronius in the year 1828, it was nothing other than pious legacies with the obligation of Masses, which had previously been left to the sodalities of St. Mary of the Angels and the Most Holy Rosary. Therefore, it seems that nothing prevents the administration of both chaplaincies from being taken away from Sempronius.

DEFENSE OF SEMPRONIUS. Sempronius, through his Defender, pointed out that it was clearly evident that in the year 1828 he had obtained a chaplaincy in the title of St. Ordination, and that in constituting this title, everything had been strictly observed that is required for the legitimate constitution of a title, since it was clearly evident that these, whether chaplaincies or pious legacies, whose foundations are hidden in obscurity, had been held by the Ordinaries as truly perpetual chaplaincies, which were granted as often as they became vacant; and that they had been granted to him with all rights, honors, and obligations, and appurtenances; and that, since their income, when it did not reach the sum for proper support, should be supplemented by paternal provision. However, the hypothesis that they were removable at will, does not apply to this matter, since all manner of their granting and provision pertained to the Ordinary, who assigned them in the title of St. Ordination, thus making them perpetual in this matter, since the title of St. Ordination is of a perpetual nature. Furthermore, he argued that the Rescript obtained in the year 1847 was obtained with a flaw of surreptition and prevarication, especially since Sempronius himself was present, to whom, as possessor of the chaplaincies, the matter concerned; of which, however, not a word nor a hint was indicated in the aforementioned petition. (1) However, it should be noted that these things could have been said at the time when Monacelli wrote; but especially in our time, perpetual chaplaincies are well suited to be conferred in the title of St. Ordination, even if necessity or convenience of the Church does not concur. On this matter, see what I have noted in the case of Excardination, Volume V, pages HH.

[*Latin ed. p. 411*]

DECREES. 411. It had not been the case that matters were entirely left to the judgment of the Ordinary; nor could the Decree of the year 1847,

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issued by the Ordinary, have altered the situation concerning the long-standing issue of Sempronium. Nor did the silence or acceptance of that Decree by Sempronium constitute an obstacle; for he himself could not, by his own will, make the title of Holy Orders either perpetual or temporary. Furthermore, it was a false assumption that the Decree of the General Vicar, issued during the Holy Visitation of 1868, concerning the burden imposed on chaplains, according to the law of the new foundation, required them to contribute whatever remained after deducting the burdens; since that Decree prescribed nothing other than that the fruits, which had preceded the year 1847 and had not yet been collected, should be applied to the benefit of the chaplaincies. With these points established, the Defender proceeded to refute the accusations: he asserted that the sacred vessels had not been destroyed, that the church was not collapsing, and that the altar was not indecent; and that if repairs were needed, such repairs were not to be made solely by Sempronium, but also through contributions from the owners of other chaplaincies; especially from a certain pious legacy, left for this very purpose, whose income would amount to 50 shields annually. Furthermore, Sempronium had borne many expenses in order to improve the endowments of the chaplaincies, and the tribunal had not infrequently urged him to press debtors to pay their debts. The other accusations, however, presumed that Sempronium was a simple administrator upon whom the burden of giving an account rested; whereas, on the contrary, he himself was the true and proper beneficiary of all revenues: and it was from Sempronium that only one thing could be demanded, namely, full satisfaction of the burdens that weighed upon the two chaplaincies; and he had, in fact, fully satisfied these burdens, as the Ordinary himself had testified. With these and other considerations, the matter was brought to a resolution regarding the question: "Whether the Decrees issued during the Holy Visitations by the Abbots, dated in the years 1863 and 1868, are valid in this case." RESOLUTION. The Holy Congregation of the Council, after deliberation on September 3, 1870, having knowledge of the case, decided to respond affirmatively, with the following qualification: that the Ordinary should appoint an administrator.

[*Latin ed. p. 412*]

412. DECREES. Concerning the goods in question, which, after the personal obligations have been satisfied by the Priest (of Sempronium) and others as is due, yield revenues which are delivered to said Priest (of Sempronium). FROM WHICH ARE GATHERED: I. When a chaplaincy is conferred, or a pious endowment, or any other legally established right in lands or revenues, which has been left, either with the burden of Masses, or with some other pious or ecclesiastical work, when these are canonically conferred according to law, the chaplain or beneficiary, to whom the title or office has been canonically conferred, has the right to all the goods or

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revenues which remain after the prescribed obligations have been met (1). II. It is a universal principle of law that ecclesiastical benefices are to be conferred without diminution. III. The canonical conferral, as it is done according to law, of a pious endowment, a chaplaincy, or a benefice, must not be confused with the transfer of the administration thereof: for those things which are given, not to a constituted chaplain or beneficiary, or usufructuary, for administration due to some urgent or extraordinary cause, to some economist or administrator, are considered to be vacant, although the economist or administrator consults about the satisfaction of the obligations. IV. The obligations of endowments, chaplaincies, or benefices are of two kinds: some are principal, which directly burden the chaplain or beneficiary, for whose sake the endowment or benefice is conferred; these personal obligations, as the Holy Congregation has said, can be called personal obligations; others are common, which indirectly burden the chaplain or beneficiary, and are connected with the endowment, chaplaincy, or benefice; and these, therefore, can be called real obligations. V. Real obligations usually consist of the maintenance of the property, the preservation of the revenues, the upkeep of furnishings, and the restoration of churches, according to the norms of law (2). (1) I have said "canonically, according to law," because the canonical conferral properly so called takes place when it is a question of benefices which are freely conferred by the Bishop, or of ecclesiastical chaplaincies, which imitate benefices; the rest, which pertain to the census of pious endowments, can be said to be conferred canonically in a broad sense, when, in conferring them, those things are observed which are either to be observed according to the institution of the founders, or according to custom, or according to any other reason; therefore, I have added the words "according to law," which words contain all that must be observed in each case. (2) See the case concerning the repair of a church, which I have presented in Volume V, page 37, and another in Volume III, page 421; see also the case concerning a parish, in Volume I, page 151.

[*Latin ed. p. 413*]

DECREES. 413 VI. Furthermore, it can be determined that from a Beneficiary, Chaplain, or Legate who administers goods fraudulently or negligently, or who refuses to render an account of the administration to the Ordinary, the administration can be revoked. VII. However, when the administration is revoked, the revenues belonging to that person pertain both to satisfying personal obligations, and the remainder, after satisfying real obligations and administrative expenses: for by revoking the administration, the title or legacy or Benefice is not taken away. VIII. The ecclesiastical chaplains established in Ã□denburg were, firstly, truly ecclesiastical, since they had long been considered as such, without any violation of law, by the Bulls of collation; secondly, they were established by a subsequent decree of the Ordinary (1); and thirdly, they were canonically conferred upon him,

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not in administration, but in title. IX. Therefore, there was no reason why the revenues of superfluous chaplains should be denied to him: especially since the chaplains had been conferred upon him in the title of Holy Orders (2). X. Nor does it appear that Ã□denburg was obligated by the second decree of establishment, in matters that would infringe upon the right he had acquired through the Bulls of the first collation, either concerning another chapel (page 4A9, ibid.), or concerning the cause of the Obligation of Masses (in Volume IV, page 528). (1) In my opinion, I believe that the Ordinary did not require Apostolic permission to establish these chaplains as he did in the second decree. For these pious legacies, if we must call them that, were considered as chaplains, and were canonically conferred; they had all the characteristics of ecclesiastical chaplains, as I have noted in Volume II, page 327, and in Volume V, page 560, and elsewhere. Indeed, the original decree of the Ordinary was lacking; but what need was there for an original decree of establishment, when the Ordinary testified that the legacies or chaplains had long been in the full power of the Ordinary, without any violation of law? It is true that the same Ordinary established them in administration; but this custom seems to me to have been an abuse. For it does not appear why goods destined for a pious work should be given, not in title, but as a rule, to the administration: this did not seem to be within the power of the Ordinary, and if he wished to do so, he would have needed Apostolic permission. It was the duty of the Ordinary to declare, or, if he pleased, to establish by a new decree, these chaplains, so that they would be conferred according to a certain law, and the goods of the same would be preserved. Therefore, it is not surprising that the Rescript, which the Ordinary presented to the Sacred Congregation in 1847, expressed such a broad power to him, that perhaps any scruple would be removed. (2) Concerning the title of Holy Orders, see the case related in Volume V, page / / 5, which has a somewhat similar aspect to the present case.

[*Latin ed. p. 414*]

414 OF DECREES. XI. However, negligence was noted against Sempronium, for he did not fulfill his obligations adequately, nor did he render an account to the Ordinary. XII. Therefore, after the administration was removed, and the real obligations were satisfied by the administrator according to the law, the revenues, both for personal obligations and those that remained, belonged to Sempronium.

DECLARATION OF THE DECREE - On the 8th of September, 1870. A summary was made for Sempronium, the Rector and Parish Priest of the Collegiate Church, who, after forty-two years of constant and praiseworthy service in the choir, was granted a jubilee indulgence under the usual clause: that although he would no longer personally participate in the choir, he might nevertheless receive all the fruits and daily distributions of his prebend, as if he were personally present at the choir and divine

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services. Because of this decree (which was the first example of a jubilee indulgence in that Collegiate Church), a controversy arose between the aforementioned Parish Priest and the other Canons of the Collegiate Church, regarding the effects of this indulgence; especially concerning the nature of the distributions and the obligations of certain Masses. The Rector appealed to the Sacred Congregation of Clerics, presenting four questions: 1. What, properly and truly, were the distributions that he was entitled to receive according to the form of the indulgence granted to him by the aforementioned Sacred Congregation? 2. Were those distributions to be considered among the daily distributions, which originate from perpetual anniversaries? 3. Were those same distributions to include those that also originate from occasional anniversaries and other prepared Masses? 4. Was the Rector absolved from the weekly obligation of service, and therefore from celebrating feria Masses, and was he obligated to give a suitable alms to those Canons who celebrated those Masses which he was previously obligated to sing by turn before the jubilee indulgence? Or rather, did these obligations pertain to the same Canons? And what about other Masses?

[*Latin ed. p. 415*]

DECLARATION OF THE WRITTEN MATTER. 415 Concerning all the yearly celebrations, or concerning the occasional funerals, which used to be celebrated by the Prefect within the year? At the request of the Bishop of Efmis, for information and a decision, after having heard the Chapter in writing, he reported on the custom of the collegiate church and transmitted excerpts from the Chapter Constitutions pertaining to the matter, and transmitted the Chapter's decision, and expressed his opinion in these words: "The daily distributions, which are mentioned first, concern revenues which are derived both from the standing assets, as well as from the fruits, which are collected from the two mills for grain, which assets constitute the common mass, and which are administered by the Canon treasurer for the purpose of paying debts." "As for those distributions which come from anniversaries, whether perpetual or occasional, which are mentioned in the second question, the Chapter Constitutions state as follows: In perpetual anniversaries, in which customary alms are given to be distributed among the poor, as well as in those occasional ones, whether Masses or solemn functions in which alms are offered to be distributed, either for the Sacrifice, or for assistance, the Canons are not at all required to be present; therefore, they are not subject to any penalty for absence, except for the loss of the distribution, of which, however, the Prefect is informed in both anniversaries, legitimately occupied in the care of souls." "The Chapter, having heard the questions raised in writing, did not refuse to grant the Prefect, in the future, the distributions which are received from perpetual anniversaries, because these, as he asserts, truly constitute a part of the

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divine office, and are counted among the daily distributions; but rather, those distributions which come from occasional anniversaries should be granted to him at the same time, since at that time, when these are celebrated, he himself performs the parochial office." "Having been asked to reveal my thoughts on these matters, I do not doubt that the Prefect, who was deservedly granted the Indult of Jubilation, and therefore has the right to enjoy all the privileges that flow from that Indult, besides the daily distributions indicated in the Rescript, may also receive those which come from perpetual or fixed anniversaries, since neither he nor the Chapter Constitutions are hindered by them, nor by the..."

[*Latin ed. p. 416*]

416. DECLARATIONIS RESCRIPTI. "Ut voluntates Benefactorum, a quibus nulla fuerit cautio ut interessent tantum illis de beneficiis, non participent, ut decrevit idem S. Ordo sub die 28 Novembris 1661." "Circa vero emolumenta anniversaria adventitiorum, quae, ut plurimum, ita conceduntur, ut solis interessentibus distribuantur, tunc ea percipere putatur moratorem, cum illis adesse parochialis muneris exercitio fuerit impeditus." "Relate ad postremum dubium, super quo silere potius maluit Capitulum, quam votum expromere, oratorem haud teneri arbitratur, nec per se nec per alium eas implere Missas, quas celebrareadstringebatur per turnum in sua hebdomada, ante iubilationis Indultum, quod resolutum pariter constat ab ista S. C. die 23 Martii 1697: idque aequitati videtur congruere, cum memoratum Indultum, quod veluti praemium quadragenarii servitii ecclesiae laudabiliter praestitit orator, non nisi beneficium ei redderet, quod in eo maxime versatur, ut aqua quocumque choralis servitii onere, quo ante gravabatur, ex concessae iubilationis privilegio exstet in posterum penitus exemptus." "Animadversiones ex officio facta: animadversione, nullo ss. Canonum iure restitutum esse privilegium iubilationis, ceu Auctores communiter tradunt; sed tamquam praemium ex consuetudine inductum, adnolatum, iubilatum, a lege quoque residendi exemptum, praesentibus ita enumerari, ut non solum omnes illas distributiones lucretur, quas tamquam fructus ceteri Canonici lucrentur ratione servitii et laboris, ut probat Pignatell, consult, can. 4, t. 4, Moneti de distrib. p. 2, q. 3, n. 44, Pyrr. Corrad. de dispens. Z. 5, c. 6, n. 18, sed illas etiam, quae ex aliorum Canonicorum fallentiis promanant, ut ex Spoletana et Realina, Punctualurum, 3 Aprilis 1841." "Proposito enim in hac causa dubio: 'An Canonicus Franciscus Etore participare debeat de punctaturisseu fallentiis aliorum Canonicorum si choro non intersit:' responsum prodit: affirmative, cum nihil obstet vel ex statutis, vel ex consuetudine." "Circa emolumenta, quae ex anniversariis provenient, animadversum est, adesse auctores, qui Resolutionibus S.

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Congregationis allegatis, negant eiusmodi emolumenta iubilato non."

[*Latin ed. p. 417*]

The provided text does not contain the quotation 1Cor 12:4. Therefore, no changes are made.

DECLARATIONS FROM WRITINGS: It is to be noted that, as Pigliateli, volume 4, consultation 2, page 417, number 2, and Ur, volume 3, page 4, discourse 4, state, this must perhaps be understood concerning all anniversaries, or in those in which the testator's will resists (1): We approve this distinction, as is stated in Romana *Iurium Canonicalium* of May 5, 1703. For, when there was doubt concerning whether a Canon, to whom, because of infirmity, an indulgence had been granted to be excused from the choir and other divine offices, could also benefit from it for *Laudemias*, *Quindennias*, *Capitula*, processions, and for any functions performed in the Church, so that he might receive the customary benefits of that kind and species, and also victuals and candles, the response was: affirmatively, even concerning *Laudemias*, except for anniversaries and other fixed observances, and in those in which the testator has disposed of things in a different manner. Also, in Aquapendens, Indulgences, of April 1, 1719: "Whether the same [Canon] should also participate in the benefits of anniversaries and associations of the dead, if he does not participate in the functions in question?" The response was: affirmatively, in the first part, provided that it does not contradict the will of the testator or donor; in the second part, negatively. In Novariae, Jubilees, of October 2, 1677, *Liber Decretorum*, 29, page 627 and 536: "Whether two Canons who have received a jubilee in the collegiate church of St. Gaudentius in Novara are to enjoy the benefits of the anniversaries that occur within the year, even if they do not attend?" The response was: affirmatively. This resolution was confirmed in *Liber Decretorum*, 32, page 14, with these words: "In the decisions concerning fixed anniversaries, and in those in which it has not been stipulated that only those present should participate, it was decided." A declaration was made on November 28, 1681, concerning the celebration of Masses and other duties performed by a Canon with a jubilee: certain duties were distinguished as being specifically attached to the *Praebendarius* and other duties that are incumbent upon the entire Chapter. If the former duties are being considered, the Canon with a jubilee is bound to fulfill them, as is stated in the Praenestina distribution of March 11 and April 1, 1862. If the latter are being considered, he is not bound to fulfill them, and this is based on many resolutions. Indeed, in Aquapendens (1), the resolutions to which these authors refer were published in the middle of the seventeenth century, at a time when the nature of these Indulgences was not yet firmly established, but they often depended on the wording of the Indulgence, which was sometimes more extensive, and sometimes more restrictive. But,

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volume 6, section 68, 27.

[*Latin ed. p. 418*]

418 DECLARATIONIS RESCRIPTI. Die 2 Martii, 1697, in libro Decretorum, cap. 47, pagina 113, interrogatum est: "An Canonicus jubilatus teneatur, vel ipse vel per alium, ad celebrationem Missae conventualis per turnum?" Et responsum fuit: negative. Item, in Senensi, die 12 Martii, 1839. Rursus, in Praenestina, die 5 Septembris, 1835, propositis dubiis: "I. Utrum Canonici jubilati Terrae Cavarum teneantur cavere et applicare Missas conventuales et feriales de turno in casu: et quatenus negative. II. An teneantur tot alias Missas lectas ad Massam munem non pertinentes applicare juxta morem Praenestinae Cathedralis in casu. III. Utrum jubilati Canonici sint censendi exempti a celebratione Missae ad auroram, et ultima circiter meridiem in diebus festis in casu?" Sacra Congregatio respondit: ad I, negative; ad II, negative; ad III, affirmative. His itaque expositis, proposita sunt solvenda Dubia: I. An et quaedistributiones debeantur jubilato in casu. II. An jubilatus sive per se, sive per alium, explere debeat Missas, quas ante jubilationis Indultum celebrare astringeba-tur per turnum et in solemnitatibus in casu.

RESOLUTIO. Sacra Congregatio Concilii, causam cognita, die 3 Septembris, 1870, respondere censuit: Ad I. Affirmative, iuxta votum Emi Episcopi, nisi obstet voluntas disponentis. Ad II. Negative, pro Missis de turno; affirmative, pro his, quae taxative Archipresbytero a statutis vel consuetudine sint attributa.

Ex QUIBUS COLLIGES: I. Jubilationis Indulta rationem habere praemii et remunerationis retribuendae illi Beneficiario, qui iugiter, et laudabiliter, cuivis peculiari ecclesia per quadragenarium choraleservitium inservivit (1). II. Ideoque praesumptionem militare piendi omnes fructus (1). Confer Appendicem, omnesque VIII pag. favore distributiones, Í29 §. In casu, jubilati perci- omniaque emolumenta.

[*Latin ed. p. 419*]

DECLARATIONS OF RIGHTS. 4. Those rights which are enjoyed by the remaining members of the choir are understood to be derived from their presence in any functions. III. Such rights are subject to limitations on fixed anniversaries, if the will so dictates; or in entirely external functions, in which benefits are conferred only by the actual presence of those involved. IV. In such external functions, the statutes of the chapter or custom shall have the greatest force. V. The canonical jubilee, which is the dignity or office of a chapter, shall not be considered exempt from those specific duties which are expressly attached to the dignity or office, whether by statutes or by custom; for these are specific obligations which burden only the dignity itself.

ACT OF WILL FOR COMMUTATION. On the days of July 9th and Au-

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gust 13th, 1870. Summary of donations. In the year 1598, a most illustrious woman, belonging to the family G, established a chapel in the village of Clairac, according to her will, with the following stipulations: 1. The right of patronage was reserved to her and her heirs, expressly prohibiting that any chaplains should ever be appointed to the chapel who in any way belonged to the family C, or who were of origin from Clairac, or from any other of the fiefs of the family G; 2. The obligation was imposed of celebrating Mass daily, which Masses have now been reduced to 120 in each year; 3. The duty of hearing the confessions of the faithful; 4. The instruction of Christian doctrine to children on feast days. Due to the reduced revenues of the chapel (which were originally unknown, but today appear to be barely seventy), it happened that in the year 1814, no one could be found who was deemed suitable for the foundation, so the chaplaincy was conferred upon a certain Cleric R, born in Clairac, who held it until the passing of years. With the same circumstances remaining as in the year 1814, the Duke X, who was the successor to all the rights of the family C, appointed a Cleric named Cleric, who served for sixteen years.

[*Latin ed. p. 420*]

420. Regarding the alteration of a will, considering the testator's age and the efforts devoted to her studies in the Seminary; but she was born in Castro P, and is not a Priest. For these reasons, Titius presented petitions to the Most Holy Father, as is testified, so that he might deign to grant an exception to the testator's will in this matter. The Bishop, having been consulted for information and his opinion, recommended the aforementioned cleric, and warned that it would be more fitting to grant her wishes for the sake of the necessity and benefit of her faithful, provided that a suitable regular Priest could be found (for there were no secular Priests in that town) who could perform all the duties prescribed by the testator, until the petitioner, Titius, became a Priest and could fulfill them.

OBSERVATIONS FROM OFFICE. From the Office, it is noted that it is the common law of both jurisdictions that the wills of the dying should be observed scrupulously; canon 1, question 2, of the Decrees, title 1, all concerning testaments, so that, unless a just and necessary cause intervenes, an alteration of the will must be made; Council of Trent, Session 22, chapter 6, concerning Reforms. Nevertheless, a just and necessary cause seems to exist to alter the testator's will. For no one could be found who would accept this chaplaincy and fulfill the attached duties, if those who are not actually Priests and were born in Castro P were excluded. This reason has been considered sufficiently valid in the past, so that in the year 1814, an exception was made for the cleric R. Currently, the same circumstances apply to the request of the cleric Titius. After these petitions were presented, on July 7, 1870, the Sacred Congregation of the Council postponed its response to the next Congregation: a decree was issued, postponed to the next. This was

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done in order to inquire of the Bishop whether the petitioner was poor. Having learned of Titius's extreme poverty, and after the petitions were presented again in the subsequent Congregation held on August 13, 1870, the Sacred Congregation decided to respond: "Provided that the duties of the chaplaincy are fulfilled by another Priest approved by the Bishop, for the sake of granting the dispensation and providing lodging, until the petitioner reaches the age for receiving the Priesthood, let the agreement be made with the Most Holy Father."

FROM WHICH WE UNDERSTAND: Wills should be carefully observed, and, by Apostolic authority, should not be altered except when a just cause demands it.

[*Latin ed. p. 421*]

APPENDIX VIII. Concerning Jubilations.

For a long time, the custom prevailed throughout the churches of all of Italy, that those who are devoted to choral service, after having completed a continuous and praiseworthy forty years of choral service, would petition the Holy See for a grant of jubilation, by which they might be excused from the choral service; and the Holy See, according to the established custom, would grant such a grant. But the causes for grants of this kind often give rise to many questions, which sometimes concern the understanding of this customary law, sometimes the reasons for obtaining such grants, and sometimes the interpretation and extension thereof. Therefore, it is fitting to discuss this type of grant in more detail, according to the practice of the Holy Congregation of Councils, through which these grants of jubilation are obtained.

If the daily and uninterrupted service of the choir is considered by common human judgment to be laborious and burdensome (as Benedict XIV states in *Inst. de Syn. dioec.* I. 43, c. 9, n. 45), "much more, with the passage of time, it has seemed that there is no end to the service, however long the years of diligent and faithful service may be." Furthermore, there is no text in canon law that grants the privilege of exemption from the choir to Canons who have, over a long period of time, commendably rendered their service to the same choir, as Navarras correctly observes in *cons.* 42, I. 3, *de Chr. non res*. However, it is written in the Mosaic law that he who had fulfilled his ministry in the temple from his twenty-fifth to his fiftieth year should be declared free from all burdensome work and labor (Numbers, c. 8). And, furthermore, civil laws have justly granted honorable missions and immunity from military labors to veteran soldiers, as can be gathered from *J. A. Muneribus ff de Vae. ct excus.* and *J. J. C. de Veteran.*, lib. 42. Moreover, in the Holy Congregation of Councils, it was once deemed tolerable, although not to be approved, a certain chapter's statute which expressly permitted that, if any Canon had diligently attended the choir for forty years, he might thereafter be excused from that service, without

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any loss of fruits or distributions, and that decision and resolution of the Congregation was approved and confirmed by the Most Holy Pope Gregory XIII, as can be seen in Gargia, *de Benef.*, p. 3, c. 9, r, § 4, n. 244. From this, the custom prevailed throughout...

[*Latin ed. p. 422*]

422 APPEN la \ VIII. "The general rule prevailed, so that Canons, and others "who are devoted to the service of the choir, if "they have diligently applied themselves to this work for "forty years, may, from then on, be dispensed from "attendance, but nevertheless, they shall receive "the fruits and distributions in the same manner "as before." Furthermore, Pope Benedict XIV, while still "holding the office of Secretary of the Sacred "Council, in the case to which this pertains, in the "matter of *Dubia de jubilationibus*, proposed on "September 24, 1718, in §. And it happened in "Rome, on August 6, 1712, *lib. 62 Decret*, that "the jubilee, although ceased, was revoked, because "it was shown that the service of forty years had "not been continuous and laudable, as also happened "in Macerata. The matter was proposed on "February 22, 1698, and resolved on March 8 "of the same year, *c. 48 Decretorum*." This practice, which was unusual in the time of "Pope Benedict XIV, did not cease to be observed "in subsequent times. When, for the first time, "petitions for obtaining a jubilee are presented "to the Secretariat of the Sacred Council, they "are first sent to the Ordinary for verification, "so that the practice of granting jubilees by the "Sacred Council has continued even with regard "to Chapters, of which no such privilege is "established in their statutes; then, information "and a vote are given, and, having heard the "Chapter, a report is made regarding the completion "of forty years of continuous and laudable "service. Afterwards, when the response has "arrived, and it is fully demonstrated that the "conditions have been met, namely, that the "service has been performed for a period of "forty years, and indeed with continuous and "laudable quality, as can be gathered not only "from the formula of the Indult, but also from "the decrees of this Sacred Congregation, in "which, or in which the jubilee has been denied, "notwithstanding the service of forty years, "because it was not continuous and laudable, "the formula states: 'The Sacred Congregation has "graciously ordered the Bishop... that, if the "facts are true, and it is shown to him that the "Orator has continuously and laudably served "the aforementioned cathedral church for forty "years, he may, at his discretion and conscience, "grant him this dispensation freely, so that, although'"

(1) "Whoever reads such a decree or one conceived "in similar terms, and who is not familiar with "the legal practice of the Roman Curia, might "easily think that the whole matter is left to "the discretion of the Ordinary, so that he "must inquire and grant the jubilee at his "pleasure. Conversely, although such decrees "appear to be left entirely to the discretion "of the Ordinary, the Ordinary cannot fail to "execute the decree, except in the case

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in "which he knows that the decree has been "obtained by deception or fraud, according "to the norms laid down by Pope Innocent III, "chapter 20, on Decrees." For in this case, to "execute the decree would be to..."

[*Latin ed. p. 423*]

AI>PE> IX VIII. The subsequent fruit may not be attainable by all, but even those who do not directly serve the divine cause, nevertheless, through the distribution of canonical benefits, may participate personally in the choir and in the offices. "However, in order to ascertain the conditions stated above, the Holy Congregation requires that the Ordinary demonstrate his favor through a suitable letter; for the Holy See, furthermore, requires testimony from the Chapter regarding its continuous and laudable choral service. It would not suffice for the faith of the Archivist alone, nor of another member of the Chapter considered separately; nor would the faith of the Secretary suffice if he does not, in the name of the duly assembled Chapter, confirm this faith. Such testimony must emerge from the Chapter through a careful investigation and examination of the register of notes, chants, and compositions, and it must be presented conscientiously. The matter must then be referred again to the Holy Congregation, which, after a new examination, may either revoke the decree or, if it is not sufficiently clear that the requirements have been met or exceeded, it may confirm it. See what I have written in Vol. IH, page 524, and note 3. The Consultor may also refer to the case of Piacenza in the Treasury of the Holy See, dated August 24, 1850. What Cardinal Bizzarri wrote in *Collectanea in usum S.C. Ep et Reg.*, page 666, is also relevant. "The Holy Congregation usually issues decrees in three forms:" 1° "In the so-called 'gracious' form; however, this form is rarely used and only in certain cases. This form is applicable when grace is directly granted without any commission for its execution; for example, when the Holy Congregation benignly grants the requested grace to the Orator." 2° "In the absolutely commissary form, if the Holy Congregation remits the granting of the grace entirely to the judgment and conscience of the executor; for example, when the Holy Congregation remits the Orator's prayers to the judgment and conscience of the Bishop, with the necessary faculties and opportunities." In this case, the granting of the grace depends on the judgment of the Bishop, who may grant or deny it as he judges in the Lord." 3° "In a mixed form, namely, when the Holy Congregation approves of the grace, but does not grant it absolutely, but rather entrusts it to the executor to inquire whether the prayers are true; for example, when the Holy Congregation benignly approves and therefore orders that the Bishop, if the facts are as stated, grant the requested grace to the Orator according to his own judgment and conscience. According to this form of decree, the executor cannot, at his own discretion, grant or deny the grace; but if, by his prudent judgment, that is, his conscience, he judges that the

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facts are true, he must demand the execution of the decree; otherwise, he is obliged to deny the execution." 4° "When the Holy Congregation appoints an executor, who is called a 'pure' executor. This executor does not assume the role of a judge, as in the mixed form, nor does he investigate any deception; but if he observes obvious deception, he simply abstains from execution. This is the type of executor appointed by this form of decree: The Holy Congregation, after careful consideration, benignly approves, and therefore orders that the Bishop grant the requested grace to the Orator. From this, it is clear that the 'pure' executor is entrusted with the naked or 'pure' exercise of execution, without the exercise of jurisdiction. What has been said about the Bishop as executor should also apply to other executors, and this is in accordance with the law, as Pirbing states in *Ius can.* I, i, lit. 5, on decrees, no. 128. Cardinal Petra, in *ad Const. Pauli II*, section 5, nos. 51, 58, and 59, etc."

[*Latin ed. p. 424*]

APPENDIX VIM 424 of distributions, or whatever other name it may be called. If it is ascertained that the petitioner has never, without a canonical reason, been absent for the entire period of 40 years, then his service is considered diligent and continuous, and therefore, the granting of the jubilee is easily justified. However, if the situation is different, all the instances of negligence or omissions committed by the petitioner during the course of 40 years must be compiled and added together, so that the total number of such instances can reveal the extent to which the service is still deficient, in order that it may be declared to have been completed in a commendable and continuous manner for 40 years. If a record of omissions does not exist, either because it is lost, or because it was perhaps never completed (although all Chapters, if they wish to perform their duty, should have it, and diligently preserve it), then recourse must be had to equivalent evidence to prove the continuous and commendable service. If such evidence is not fully available, then room is given for presumptions, as in Brixen, December 20, 1823, in the summary of petitions, §. Constare; also in Sutri, February 21, 1824, ibid. §. Archipresbyter, and also in the City of Castellana, September 17, 1841, §. Primo. In these cases, even though the aforementioned proof was lacking, the petitioners nevertheless obtained the jubilee. I have said that if the petitioner is found to be negligent in any way, the total number of omissions must be added up, so that it may be known what is still lacking. In this case, the Holy Congregation is accustomed to respond: that the forty years of commendable service have been completed; as in Benevento, September 3, 1825, proposed in the summary of petitions; also in Sutri, September 22, 1855, in which the Canon N. had obtained his canonry on April 12, 1802, and in the year 1852 requested the jubilee, and the Holy Congregation responded: that he should proceed with the jubilee, having completed the forty years of service and having made up for the

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omissions, of which it was established that he owed more than a few. Later, at the petitioner's insistence, a supplication was presented again in the full Congregation. But it was the opinion of the Fathers that the omissions had not yet been fully compensated for, and therefore a rescript was issued: that the grace of the jubilee should be granted after the Kings (1), that is, after the Feast of the Epiphany of the following year, 1856, and so on. In this matter of jubilees, particular attention deserves to be given to the case mentioned above, which is worthy of being included.

(1) See what I have noted regarding such formulas, by which the resolution is postponed, in Vol. III, page AU.

[*Latin ed. p. 425*]

The following questions, concerning Jubilations, were proposed before the Sacred Congregation on September 24, 1718, and resolved on December 17 of the same year. In this instance, several questions were presented, and their resolutions were to serve as a standard for the Sacred Congregation. It is expedient to expound these questions and their resolutions here.

I. Whether a Jubilation should be granted to Canons and Beneficiaries who have served churches for a period of 40 years, even if, during that period, they were absent from the churches with due permissions and Indults, either due to infirmity, or for studies, or for the service of their church, or on account of duties for which they obtained Indults of absence for days and hours, or simply and absolutely absent from the church during the office assigned to them.

II. Whether a Jubilation should be granted to those who have served for a period of 40 years, but partly in one church, and partly in another, or as Canons in both, or as Beneficiaries in one and Canons in another; nor also to those who have served in the same church throughout the entire time, but partly as Clerics Beneficiaries, partly as Beneficiaries, and sometimes partly as Beneficiaries and partly as Canons, or partly as Coadjutors and partly as Principals and Titulars.

III. Whether a Jubilation should be granted to those who have served for a period of 40 years, notwithstanding the small number of others who remain devoted to the service of the church; and what constitutes a small number of those serving in the case and for the purpose under consideration?

IV. Whether, notwithstanding the Indult of Jubilation, the Jubilarian can be compelled to serve, if the Divine worship suffers detriment.

V. Whether, with the Indult of Jubilation, the Jubilarian is bound to reside, even if he is not bound to serve.

The Sacred Congregation, on the aforementioned date, responded as follows:

To I: Affirmative, concerning those absent due to infirmity with due

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permissions and Indults, or for the service of their church, or with Indults of absence for days and hours; but negative concerning those absent due to studies, and concerning those who have Indults simply and absolutely to be absent from the church during the office assigned to them.

To II: Negative to the first part; affirmative to the second.

To III: A resolution will be given in particular cases.

To IV: Affirmative.

To V: Negative, according to the Decrees. Specifically, according to the Decree issued in a certain cause of Saint Angel in Vado on April 15, 1690, in book 4 of Decrees, page 256, and in another cause in Patavina on June 9, 1714, in book 64 of Decrees, page 217, in which it was affirmed that the Jubilarian was not to be held to serve nor to reside in the place of the Benefice.

[*Latin ed. p. 426*]

426 APPENDIX VIII. Besides such controversies as have arisen from matters formally proposed and resolved by canon law, other questions, as is customary, have also arisen in particular cases and have been defined. Sometimes it happens that cathedral or collegiate churches, due to certain circumstances, must remain closed for a longer period: for example, at the beginning of this century, many churches were closed for a time due to political disturbances, and although this was permitted by law, a period of mourning was established, during which the public services were suspended, so that the church might be reopened after a suitable interval. But these are not the controversies that we are discussing: rather, it is a question that has been raised, as can be seen from the case of Praenestina, where the Orator, seeking to obtain a dispensation for the celebration of the Jubilee, consulted the Holy Congregation. In Monsfaliscio, on June 27, 1817, and in Fermo, on April 9, 1853, dispensations for the celebration of the Jubilee were granted, to be celebrated only on certain feast days, as is customary in many collegiate churches. In Monsfaliscio, on August 18, 1808, and again on December 6, 1794, it was decided that the Jubilee should be celebrated in the collegiate church of Gradularum, which had been closed for repairs. A certain Canon, who had resumed his duties after an absence of more than forty years since he had obtained his canonry, raised objections to the celebration of the Jubilee, arguing that the church was not yet fully restored. The Chapter requested a dispensation from the Holy Congregation, but the Holy See replied that a dispensation should be granted, with the addition of a clause that the Jubilee should be celebrated only after the church had been fully restored, in accordance with the Resolution concerning the fourth doubt in the "Dubia de Jubileis" of 1718. In Fermo, on September 13, 1852, a Canon proposed that a certain person, who had diligently served the church, should be granted a dispensation

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for the celebration of the Jubilee.

[*Latin ed. p. 427*]

He had served the choir for 32 years; afterwards, he was afflicted by a grave and prolonged illness, lasting until the fortieth year after receiving his canonical institution. He requested a grant of leave. The Holy Congregation did not grant the leave, but rather extended a leave of absence from the choir, during his infirmity. In this matter, it frequently occurs that the question is raised whether a cleric granted leave is obligated, either by himself or by another, and at his own expense, to sing and apply the conventual Mass, and to fulfill other duties incumbent upon the chapter. Indeed, a general rule can be established that a cleric granted canonical leave is not bound to fulfill the aforementioned obligations. Furthermore, it is often asked whether a cleric granted leave is to receive distributions, not only the ordinary ones, but also the extraordinary ones, which arise from offerings of the absent, from anniversaries, from funerals, from associations, and other similar sacred benefits. If the matter concerns offerings and anniversaries, and other fixed and perpetual functions, the affirmative should be maintained, provided that the will of the disponer does not object; but if the matter concerns functions that are entirely incidental, uncertain, and entirely extraordinary, the negative opinion generally prevails: for from these, benefits seem to be derived which the benefactors intended to be given only during their lifetime. Such rules are supported by numerous resolutions published by the Holy Congregation. See, for example, the cause of the Lucanian Exemption of January 30, 1838, which is extensively described by the Reverend Angelo Lucidi in his work *De visitatione ss. Liminum*, volume III, page [illegible] and following. There, in § Ceterum, no. 9, it is stated as follows: "Furthermore, it seems to be inferred from the resolutions (which were presented in abundance beforehand) that it was the discipline of the Holy Congregation to consider clerics granted leave as exempt from the celebration and application of conventual or chapter Masses, either by themselves or by another. Regarding benefits, it was considered that they should receive a portion of the benefits derived from fixed anniversaries, unless otherwise stipulated by the testators; but they should receive a portion of the benefits derived from uncertain anniversaries and from other extraordinary and uncertain functions." This is confirmed by the answers to the questions posed therein, which were as follows: I. "From which distribution should a portion be deducted for alms for Masses, in the case where the application of said Masses is incumbent upon a cleric granted leave?" II. "Should the aforementioned alms be designated for the account of the synodal tax, or rather, for the tax established by the chapter, in this case?" III. "Is a portion due to a cleric granted leave, even if he is

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absent?"

[*Latin ed. p. 428*]

428 APPENDIX VIII. » Regarding the emoluments derived from benefices, it is not to be extended, that is, to be applied faithfully, as before, to the fulfillment of obligations, including those pertaining to the association of the faithful and to specific funeral expenses, in the case. IV » Whether a portion of the emoluments derived from fixed anniversaries is due in the case. V » Whether a portion of the emoluments derived from uncertain and extraordinary anniversaries is due in the case. VI » Whether a portion of the emoluments derived from Misses sung ad interim, which are celebrated on the occasion of feasts at the petition of Benefactors by the Chapter in churches of the city and territory, is due in the case. It often happens that a canonry is associated with the care of souls. In such a case, the Holy Congregation decreed the aforementioned jubilation. To I After deducting first the entire amount of the daily distributions due to the canonical benefice, the remainder is to be used for alms for the conventual Mass. To II Negatively to the first part; affirmatively to the second. To III Negatively in all cases. But what if the canonry is not associated with the obligation of assisting the parish priest in the care of souls, which frequently happens in collegiate churches? Besides the obligations that are inherent to canons in choral benefices, which are common to all members of the choir, and furthermore, Praebenda, which most often have special obligations attached by the founders, such as, for example, the celebration of Masses for the suffrage of the founders. Indeed, there is no doubt that such obligations regarding jubilees... In Spoleta, on November 24, 1770, the Holy Congregation granted an Indult of jubilation to one of the four missionaries burdened with the obligation of assisting the parish priest, after deleting the conditions imposed by the Chapter, among which were those that "concerned providing assistance to the parish priest." The same occurred in Montisfalci on September 10, 1853. Nevertheless, the same...

[*Latin ed. p. 429*]

APPENDIX: VIII. 429 S. We have seen that the Congregation was in another matter at Montifalcisco, in the case where a decree forbade the singing of the jubilant hymns for the service of the chapter of such Beneficiates, namely, the liturgical hymns. However, it must be noted that those absent were to enjoy their fruits, as it had been decreed that the Canonry owed a special duty. But what will happen if the duty of assisting the Parish Priest were to be imposed, so that, conversely, this chapter decree would prevent other Canons from participating, and they would only be exempt if the Beneficiates, by oath, promised to observe the prescriptions of their *palis* and another Canon, about whom we are speaking, would be hindered otherwise. Regarding the *Praebendarii*, concerning whom

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there was a dispute about the attached dignity, the Holy Congregation, in Gerona, in the session of February 11, 1772, and confirmed on May 2 of the same year, and also in Caurien, considered whether the *Praebendarius* was to be allowed to participate in certain solemn choral functions by means of a grant of indulgences. In Gerunda, the following doubts were raised: I. "Do the statutes of the cathedral of Gerunda of the years 1536 and 1537, respectively, prevent the granting of indulgences for the purpose of singing?" The Holy Congregation responded in the Declaration, Rescript of September 3, 1870, page 418. However, this case is not to be confused with another case in Ariminen: on March 3, 1855, in which a certain Mansionary was concerned, to whom the office of Master of Music was assigned, and six other Mansionaries were singing in the choir, who were obligated to perform the singing. The Holy Congregation responded to the first question negatively, and to the second affirmatively. In Caurien, the same forum of doubts raised the same questions, and the same answer was given. In the case mentioned above, under the title "Doubts Regarding Indulgences," on December 17, 1718, in response to doubt II, the Holy Congregation resolved that Beneficiates who had performed choral service partly in one church and partly in another for 40 years, were not to enjoy the grant of indulgences. This rigor was later relaxed by practice: for in many resolutions, it was established that if anyone, having served for 40 years with merit, was deprived of his emolument by Pope Gregory XIII.

[*Latin ed. p. 430*]

430 APPENDIX Concerning the granting of jubilees for forty years of service in a choir. If a choir has served for forty years, not only in the churches of the same city or town, but also in churches of the same diocese, it may petition for the grant of a jubilee. Regarding this matter, consult the cases of Perugia, April 8, 1784; Recanati, November 23, 1805; and Verula, September 17, 1842. It is not an impediment if someone has performed service in a different capacity, for example, partly as a chaplain or resident priest, and partly as a canon, as in the case of Rome, December 12, 1699, which is cited in Derthona, May 14, 1768. Therefore, when, based on information from the Bishop and the testimony of the respective Chapters, it is established that a choir has rendered laudable and continuous service for forty years, the Holy Congregation does not hesitate to grant the jubilee. However, if the service was performed in different dioceses, the Holy Congregation denies the jubilee. There are, however, very rare cases in which the Supreme Pontiff, through special and extraordinary grace, has joined together service performed in different dioceses and has granted permission for it to count towards the granting of the jubilee. Often, Chapters are found in which certain officials are instituted with various names, such as Mansionarii, Clerici, who are dedicated to choir service; and duties are assigned to them, but they do not possess the quality of true beneficiaries

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and are not able to receive stipends. It sometimes happens that such officials, after having devoted themselves to the choir for several years, are granted choral benefices in the same church; nevertheless, they continue to have their service counted until, after forty years, they request the jubilee from the Holy Congregation. But the established and certain doctrine of the Holy Congregation is that service performed in a choir, when it is done with a status other than that derived from a true and perpetual benefice, is not considered a reason for granting a jubilee; regarding this matter, consult the case of Rome, December 18, 1847, in Question III concerning the case mentioned above, concerning Jubilees, in which the question was raised whether a jubilee should be granted, even if the number of choir members remaining is small; and the Holy Congregation responded: "A resolution will be given in particular cases." Therefore, in this matter, different declarations have been issued by the Holy Congregation, depending on the circumstances, since the condition of all churches is not the same; it follows that what is considered a sufficient number for the divine service in one church may not be considered sufficient in another; regarding this matter, consult the cases of Praenestina, May 27, 1784, and Civitas Castellanae, July 15, 1820, in which examples are given that, despite the small number remaining, the Holy Congregation granted the jubilee. However, in such cases, a clause is usually added to the decree granting the jubilee: "with the understanding that it may be revoked if the divine service suffers detriment." This clause is always implicitly understood, even if.

[*Latin ed. p. 431*]

APPEND. VIII. 431 would not be expressed. For it is within the power of the Ordinary to recall to choral service those who have been granted a dispensation in a case of urgent necessity, so that the divine service may not suffer a grave detriment. In the response to Question II in the attached case, *Dubia libtl.*, it was established that a service rendered by a Beneficiary, partly in the quality of a Coadjutor and partly as a titular canon, could contribute towards the fulfillment of the requirements for a dispensation. Some years ago, a case occurred which was quite rare, in which a certain Joseph Bianchi, a Canon Coadjutor in the church of St. Mary across the Tiber in the venerable city, found his Coadjutor deceased after forty-two years of service following his appointment as Coadjutor. For the Coadjutor, upon receiving a pension of 40 scudi, annually paid by the Coadjutor, was appointed on February 17, 1780, and in the year 1822, the Sacred Congregation was petitioned to grant him a dispensation. This matter was carefully discussed, and the following questions were proposed: I. "To a Canon Coadjutor, while his Coadjutor is still living, should an Indult, both for the dispensation and for the jubileé, be granted in this case?" II. "Given the continuous and laudable forty years of service of Canon Bianchi, should an Indult for the jubileé be granted to him?" The Sacred Congregation, on March

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30, 1822, responded as follows: "Regarding the question of whether an Indult obtained for the first benefice also applies to a second, I will present various cases which have actually occurred. In Fulginata, on November 22, 1689, a certain Canon Dean, who had already received a dispensation, obtained a Priory. He inquired of the Sacred Congregation whether the previous dispensation would also apply to the Priory, and the Sacred Congregation issued a positive response. In Siena, on March 16, 1726, a certain Fabius, after seven years from the granting of the dispensation, was elevated to the dignity of Dean. In this case as well, the Sacred Congregation decreed that the previous dispensation should apply to him; it added only that he should serve on the more solemn feasts, on those days when the presence of the Dean in the choir was desired: which is in accordance with the regulations which I have indicated above. To I: No. To II: Considering the particular circumstances, one should petition the Most Holy [See] for the granting of this dispensation. Considering the particular circumstances, one should consult the Most Holy [See] for the granting of this dispensation, excluding, however, any functions, if any, which are particularly attached to the Archdeaconate. It is not uncommon for a Beneficiary who has already received a dispensation to obtain another choral benefice: In the three cases mentioned above, the question concerned a newly obtained Canonry in the same church. Regarding a different church, in Recanati, proposed on March 29, 1817, and resolved on November 29 of the same year, a certain Rossi, who had already received a dispensation, obtained an Archdeaconate, and in the decree of appointment, a decree of revocation of the dispensation was added. However, he, for several reasons concurrent in the case, did not hesitate to request the dispensation, and the Sacred Congregation responded: "Considering the particular circumstances..."

[*Latin ed. p. 432*]

482 APPENDIX VIII. In the city, we have an example: Dominic Borghi, a man distinguished by his piety in Lodi, who had long been a Canon in the illustrious Basilica of Saint Lawrence in Damasus, and had been appointed, through the generosity of the Most Holy Divine Name, as a Canon of Saint Mary Major, renounced that appointment; therefore, he inquired whether the already accepted appointment still held validity. However, it was observed that this did not concern the same church (1), as had occurred in the three cases mentioned previously, and so, with all due consideration, he was granted the grace he requested. The matter was presented to the Most Holy Father, and after receiving the report from the Eminent Archpriest and Chapter of Libera, in an audience on August 17, 1868, the Most Holy Father ordered that the requested grant of the jubilation be approved, and in all other respects, with the usual stipulations. Before concluding this article, it must be noted that, in recent years, the Holy Congregation has somewhat restricted its involvement in granting such indulgences. Indeed, it has been

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observed that, due to political upheavals, not only civil but also ecclesiastical affairs, the Chapters, almost everywhere, have been so diminished in number of Canons and other members of the choir that they scarcely suffice, and sometimes do not suffice, to fulfill the divine psalmody. If this situation persists, it could lead to the cessation of the custom of granting the jubilation even in Italy. And in its place, an Indult for reasons of infirmity might be granted, as is customary in other nations where the custom of granting the jubilation has not prevailed or has ceased. For the Indult of jubilation differs from the Indult for reasons of infirmity, in that the former has the nature of a reward and remuneration; whereas the latter is granted due to advanced age and other causes of infirmity, and extends no further than what the infirmity requires. Recall, if you wish, what I have written in these publications regarding the nature of these Indults, as appropriate. We hope, rather, that when the causes of infirmity cease, the other nations will also grant the jubilation, along with Italy. (1) It is somewhat harsh that this church should owe a benefit to a beneficiary who has never served it; and it is contrary to the law, although it has been softened, which was affirmed in the Response to the Doubt II in the often-cited case of *Dubia Jubilationum*; therefore, a special grace seems necessary in this case.

[*Latin ed. p. 433*]

433 IX. INSTRUCTIONS, (DISPOSITIONS). CONCERNING THE CONSTITUTION OF THE APOSTOLIC SEE. Instruction addressed to the Ordinary, No. « Certain doubts have been presented to this Supreme Congregation by Your Eminence, and on the fourth day of June, in the year of our Lord 1870, the following response was given. » In the fourth doubt, several points were brought forth by You. And first, You expressed concern regarding Catholic magistrates and servants of the government, who violate the immunity of ecclesiastical asylum, fearing that all of them might be subject to excommunication, which is the fifth among the excommunications of latæ sententiæ reserved to the Holy Pontiff, as established in the Apostolic Constitution of October 12, 1869, and which reads as follows: — Those who order or, with rash audacity, violate the immunity of ecclesiastical asylum. » To alleviate this concern of Yours, and after hearing the opinion of the Most Holy Fathers, We wished to instruct You in the following terms regarding those words: "with rash audacity," encompassing both. "From this, it is understood that only he incurs excommunication who, without being compelled by others, and being prudent and aware, either orders or, by carrying it out, violates the immunity of ecclesiastical asylum; and it should not be surprising that such a one, being entirely devoid of excuse, is subject to excommunication." » Then, You expressed a similar concern regarding the same magistrates and servants of the government who bring clerics before their tribunal for the violation of civil law, or in some other way, and whom You feared might be subject to excommunication, which is

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the seventh among the excommunications of latæ sententiæ reserved to the Holy Pontiff in a special manner, as stated in the aforementioned Apostolic Constitution. But in it, the article in the Constitution of the Apostolic See is to be read as follows: « Those who order or, with rash audacity, violate. »

[*Latin ed. p. 434*]

4.34. The Instruction, under the authority of the Constitution, compels us to note that excommunication does not apply to those who are coerced, even if they are judges, but only to those who, by force, compel others to act, or who compel others to do such things, and it is easily apparent that the latter do not merit any indulgence. "It is surprising that, in the third place, you add the words 'to be considered,' concerning the same individuals, whether they truly incur excommunication, those who scarcely have knowledge of laws that have been obsolete for a long time, either in Anglia or in Gallia. For it concerns a Constitution of the Apostolic See, which was not issued a long time ago, but on October 12, 1869, and in which the Supreme Pontiff expressly states that all the penalties contained therein—not only by the authority of the ancient canons, insofar as they agree with this our Constitution, but also by this very Constitution itself—must, as if they had been first issued by it, have full force and effect. Therefore, it cannot be said, strictly speaking, that ignorance of a recent law is excusable, since this Constitution was promulgated throughout the Church in the City, and was disseminated to all parts of the Church, and is now celebrated everywhere." "Fourthly, you asked whether those who have incurred the aforementioned penalties should be admonished, which, moreover, does not depend on whether you are inquiring about the internal or external forum. But if it is a matter of the internal forum, theologians teach that, sometimes (that is, with due exceptions, as they themselves state), one can dissimulate with a penitent, when these two things concur: good faith and an undoubted presumption that no benefit will be derived from admonition; however, here it is clear that, whether because of the quality of the persons subject to excommunication, or because of the quality of the Constitution itself that imposes the same penalty, which is the most recent and plainly known, it is difficult to have the good faith that would suggest omitting admonition. And if we are speaking of the external forum, a distinction must be made between pastoral admonition and a judicial sentence, by which the accused person is declared to have incurred excommunication. Whether it is appropriate to pronounce such a declaratory sentence cannot be generally determined, but must be carefully assessed in light of the facts and the circumstances of the person. As for pastoral admonition, you know what the theologians teach, that, if there is a lack of a probable hope of amendment and benefit, and prudence dictates a more

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serious course of action..."

[*Latin ed. p. 435*]

APOSTOLIC SEE. 435 They consent that, should any evil occur, the duty of warning should be postponed, a duty which the Pastor is urged to fulfill by his own office; nevertheless, they caution that, if scandal arises from the Pastor's silence, it is not permissible to postpone it. Finally, regarding the fifth question, whether you have the power to grant absolution from the aforementioned excommunications, the Eminent Fathers considered that this was being asked of you because of derogatory clauses that are read in the Constitution of the Apostolic See; for otherwise, you yourself must know what powers have been granted to you. Therefore, they decreed that a declaration regarding the aforementioned clauses, issued by this Supreme Congregation by order of His Holiness, should be communicated to you, which is of the following tenor: "The Holy Father has not, in any way, intended to cause the slightest diminution of the powers of any kind that have been granted by the Holy See before the promulgation of this Constitution, whether these are quinquennial, or extraordinary, or related to the present Jubilee, and He desires that they remain in full force during the term of their respective concessions or indulgences." In the fifth doubt, you indicate that you do not fully understand why, in the Constitution of the Apostolic See, under number four, the excommunications reserved to the Roman Pontiff include those against those who do not denounce hidden leaders and heads of Masonic or Carbonari sects, or other sects of the same kind, which plot, openly or secretly, against the Church or legitimate authorities, and that the reason for this doubt is that the names of the presidents and members of each Lodge are publicly given in print. But so that you do not allow anyone to be negligent in this very serious matter, which is of such great importance to the safety of the Church, the salvation of souls, and public tranquility, you must be persuaded that the Roman Pontiff, for most serious reasons, has included these excommunications.

(1) This declaration had been communicated to the Fathers of the Vatican Council, who had requested it, by the Eminent Cardinal Bizzarri: and this response was given by the Sacred Congregation for the Propagation of the Faith, and was widely disseminated. Thus it sounds in Latin: "By the Constitution, the Most Holy Father has not intended, not even in the slightest degree, to diminish the powers of any kind that have been granted by the Holy See before the promulgation of this Constitution, whether these are quinquennial, or extraordinary, or related to the present Jubilee, and He desires that they remain in their full force, during the time that they endure in said concessions or Indulgences."

[*Latin ed. p. 436*]

4-36 INSTRUCTION: Concerning the Constitution of the Apostolic See,

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it is understood that the aforementioned excommunication, which had been widely proclaimed, has been restrained with much milder terms. Although it will not be difficult for anyone to perceive some reason for the imposed denunciation, even if, as you say, the names of the presidents and members, at least within the Masonic and Carbonaria sects, are publicly printed. For, apart from these, who can truly say or know whether those who appear in public newspapers are merely in name and appearance the leaders, while the true instigators and directors remain hidden? Or who can predict whether they will constantly and consistently reveal the names of the leaders? You see, therefore, that the precept to denounce at least those leaders who are hidden is not given in vain or without reason.

But you ask to whom and by whom such denunciations should be made in the missions. It is certainly not obscure from whom these denunciations should be made. For there is a general precept given to all the faithful. To whom they should be made is also clear, namely, to those who, for the sake of their pastoral office, are obligated to watch over and protect, lest the sheep entrusted to them fall into the hands of wolves, or be infected with pestilence; such as is anyone who performs an episcopal or quasi-episcopal function in the missions, that is, a Vicar or Apostolic Prefect, or one delegated by them for this purpose.

SUPREME SACRED CONGREGATION: Instruction concerning the proof of the death of a spouse (1). "Only two persons can be joined and united in the bond of marriage, as Christ teaches; but, if one of the spouses dies, the second marriage, indeed, further marriages, are licit, according to the dogmatic teaching of the Catholic Church."

But concerning second and further marriages, when the matter is discussed, it often involves difficulties and deceptions. (1) Such an Instruction of the Holy Congregation, concerning the proof of the death of a spouse, is the most recent of all.

[*Latin ed. p. 437*]

INSTRUCTION REGARDING THE PROOF OF THE DEATH OF A SPOUSE. 437. The bond of marriage, therefore, has been diligently guarded by the Holy See, both through general constitutions and, more frequently, through responses given in particular cases, so that the freedom to enter into new marriages may be preserved for everyone, and so that the aforementioned unity of marriage may not be endangered. Hence, the canons have been established by which, in order that someone may lawfully proceed to other vows, it is required that certain knowledge of the death of the spouse be established, as in chapter "Dominus, concerning second marriages," or that certain news of the death be received, as in chapter "In praesentia, concerning betrothals and marriages" (1). Furthermore, those things which are more fully explained in the Instruction "Cum alias," promulgated on August 21, 1670, by Clement X, and included in the

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Roman Bullarium, concerning the examination of witnesses for marriages to be contracted in the Vicariate Court, and in other Ordinariates, are particularly relevant to the matter in numbers 12 and 13 (2). And these would be quite sufficient if, in such cases, absolute and complete certainty regarding the death of the other spouse could always be obtained; but since, in almost countless cases, this is not possible (which has been wisely observed in the aforementioned Instruction with these words: "If, however, such testimony cannot be obtained, the Holy Congregation does not intend to exclude other proofs which may be admitted according to common law, provided that...").

(1) In the chapter "Dominus, concerning second marriages," it is written that Pope Lucius III addressed all Christians held captive by the Saracens: "Concerning marriages which some of you have contracted (without having certain knowledge of the death of your spouse); we respond to you that no one should, in any way, proceed to second marriages until it is known to him that his spouse has passed away from this life. If, however, anyone or any woman has not observed this, and still doubts about the death of her former spouse, she shall not deny what is due to her to the one to whom she is married, but she shall know that nothing is to be demanded from her. But if, after this, it is established that her former spouse is alive, she shall return to her former spouse, abandoning adulterous relations." In the chapter "In praesentia, concerning betrothals," Pope Clement III wrote to the Bishop of Caesaraugusta: "In our presence, you inquire what is to be done concerning women who, because of captivity or travel, have been separated from their husbands for more than seven years, and who cannot ascertain whether their husbands are alive or dead, although they have diligently inquired about it; and who, because of their youth or the frailty of their flesh, cannot contain themselves, and ask to be joined in marriage to others. We respond to your consultation as follows: whatever the number of years may be, as long as their husbands are alive, they cannot canonically enter into the consortium of another; nor shall you permit them, by the authority of the Church, to contract marriage, until they receive certain news of the death of their husbands."

(2) The complete text of this Instruction is found below in Appendix IX.

[*Latin ed. p. 438*]

438. The Instruction *Adprobati* (which are to be, and are sufficient), follows, stating that, even when general laws are in place, it frequently happens that the judgments of ecclesiastical officials are often based on unjust considerations and require correction; indeed, due to the great ease with which, in our age, people travel to the most remote regions, such cases have become so numerous that frequent appeals are made to this Supreme Congregation regarding them, and furthermore, a great deal of time is wasted in the exchange of information and instructions necessary

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for these matters, preventing the swift resolution of cases. Therefore, this Holy Congregation, eager to address such needs, and also considering that, especially in mission territories, ecclesiastical officials are in need of suitable assistance to help them overcome serious difficulties, has decided to issue a more comprehensive Instruction, in which, without in any way abolishing what has already been established, rules are set forth that this very Holy Congregation usually follows in such cases, so that, either without the need for an appeal to the Holy See, judgments may be rendered, or, certainly, if an appeal is necessary, the state of the case may be so clearly explained that it should not be delayed by a lengthy process. Therefore:

1. When a question concerning the death of a spouse is raised, it must first be noted that the mere absence of the spouse, although it may be admitted by civil laws almost everywhere, is by no means sufficient, according to the Holy Canons, for a just determination. Thus, Pope Pius VI wrote to the Archbishop of Prague on July 11, 1789, stating that the mere absence of a spouse, and any kind of silence from that spouse, is not a sufficient argument to prove death, unless the spouse has been declared absent by a royal decree (and it should also be noted if this was done through public newspapers), and has given no indication of his or her whereabouts. The same Pontiff also said that contumacy is not a cause of death.

2. Therefore, in accordance with the aforementioned Holy Canons, an authentic document of death must be diligently sought; that is, a document drawn up from the records of the parish or hospice.

[*Latin ed. p. 439*]

DE OBITU CONIUGIS. 439 vel ab ecclesiastica auctoritate, vel, si hoc non poterit fieri, a civili magistratu loci ubi, ut putatur, persona obiit. » 3. Interdum hoc documentum non potest obtineri; in talibus casibus, testium depositionibus opus erit. Testes autem debent esse duo saltem, iurati, fideles, et qui, de facto proprio, mortem cognoverint, et qui inter se sint concordes de loco, et causa obitus, et de aliis circumstantiis capitalibus. Praeterea, si defuncti sunt propinqui, vel socii itinere, industria, vel etiam militiae, tanto plus testium adhiberi debent. » 4. Interdum solus unus testis invenitur; et quamquam, secundum legem, testimonium unius non admittitur ad probandam rem pleniter, tamen, ut coniux non coactus sit vitam coelibem agere, et ut non possit iterum nuptiis inire, Suprema Congregatio, in talibus casibus, non semper repudiat testimonium unius, dumtaxit illius testis praedita sint conditionibus supra dictis, et non sint subiecti exceptioni aliqua, et praeterea, eius depositum ab aliis, et ab auxiliis gravibus, confirmetur; et si alia externa auxilia omnino non possint colligi, certe hoc sit certum, nihil in eius testimonio inveniatur quod non sit congruum, et omnino verisimile. » 5. Accidit etiam, ut testibus, omnimodis fideles, testentur se, tempore non suspecto, mortem coniugis ex aliorum attestatione audivisse, sed hi, vel quia absentes sunt, vel quia obierunt, vel ex alia causa

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rationabili, non possunt examinari; tunc dicta ex alieno ore, prout ad omnes alias in casu circumstantias respondent, aut saltem ad urgentissimas, sufficientia censentur ad prudentem iudicium de morte sequenti. » 6. Verum, experientia compertum est, quod non semper invenitur testis qualis supra describitur. In hoc casu, probatio obitus ex coniecturis, praesumptionibus, indiciis, et adiunctis quibuscumque, curanda erit investigatione sedulosa et valde cauta; ita, ut, collectis multis ex diversis partibus, et natura eorum perspecta, prout scilicet urgentiora, vel leviora sunt, seu propiore vel remotiore nexu cum veritate mortis coniunguntur, inde iudicium viri prudentis ad affirmandam mortem, per probabilitatem maxima, seu moralem certitudinem, moveri possit. Quapropter, in singulis casibus, ha-

[*Latin ed. p. 440*]

440. INSTRUCTION ON HOW TO PROVE that, from these conjectures joined together, a just proof can be obtained; it is to be left to the judgment of the judge; nevertheless, it will not be irrelevant to indicate more sources from which these, whether more urgent or even less urgent, can be gathered and obtained. 7. Therefore, in the first place, those presumptions must be investigated which concern the person of the deceased who is asserted to be dead, and which can certainly be obtained from relatives, friends, neighbors, and in any way from those who know both spouses. In such an examination, it will be necessary to inquire, for example, "Whether the person about whom there is talk was endowed with good morals; whether he lived piously and religiously; whether he loved his wife; whether he had any reason to conceal himself; whether he possessed good property, or whether he could expect something from his relatives, or from elsewhere." "Whether he departed with the consent of his wife and relatives; what was his age and health at that time." "Whether he ever wrote, and where, and whether he revealed his intention to return as soon as possible, and whether other indications of this kind can be gathered." "Other indications, depending on the cause of the absence, can be gathered from circumstances in the following way." "If he departed for military service, inquire from a military commander what he knows about him; whether he was present in any battle; whether he was captured by the enemy; whether he deserted the camp, or whether he had dangerous assignments, etc., etc." "If he undertook a journey for business, inquire whether serious dangers were encountered during the journey; whether he set out alone, or accompanied by others; whether seditions, wars, famines, and plagues occurred in the region to which he went, etc., etc." "If he undertook a sea voyage, a diligent investigation must be made from which port he departed; who were the companions of the journey; where did he go; what was the name of the ship he boarded; who was the captain of the same ship; whether he suffered a shipwreck; whether the company that perhaps gave a guarantee for the ship has paid its price; and other circumstances, if any, must be carefully

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investigated." 8. Also, reputation can help as an argument regarding death, but under these conditions, namely, that it is confirmed by at least two trustworthy and sworn witnesses; who...

[*Latin ed. p. 441*]

DE DECESSO DI UN MARITO O MOGLIE. 4-41 Si indaghi sulle ragioni che hanno portato a tale fama; se essa sia stata accolta dalla maggior parte del popolo, e se gli interessati abbiano una giusta opinione su di essa; e non vi sia dubbio che sia stata diffusa da coloro di cui si indaga. » 9. Infine, se necessario, non sarà trascurata l'indagine attraverso i pubblici registri, fornendo al Direttore tutte le necessarie informazioni sulla persona, a meno che, per speciali circostanze, non si ritenga opportuno, con un consiglio più saggio e prudente, agire diversamente. » 10. Questa Sacra Congregazione di solito esamina attentamente tutte queste questioni, a seconda dei casi; e poiché si tratta di una questione molto importante, soppesando attentamente tutti gli aspetti, e ascoltando inoltre le opinioni di molti teologi e giuristi, infine pronuncia il suo giudizio, se si possa ritenere che vi siano prove sufficienti di tale decesso, e che nulla ostacoli al concedere al richiedente il permesso di contrarre un nuovo matrimonio. » 11. Da tutto ciò, i Superiori Ecclesiastici possono trarre una certa norma da seguire in tali giudizi. E se, nonostante le regole finora indicate, la questione dovesse ancora apparire incerta e complessa, dovranno ricorrere alla Santa Sede, trasmettendo con essa tutti gli atti, o almeno esponendoli attentamente. » DA QUESTI SI PUÒ DEDURRE: I. Che nessuno dei coniugi, finché l'altro è in vita, ha la facoltà di contrarre un altro matrimonio; e che deve essere provato il decesso del coniuge assente affinché l'altro possa contrarre matrimonio. II. Che il decesso del coniuge assente deve essere provato con prove legittime e consuete, cioè attraverso documenti o testimoni degni di fede. III. Se non fosse possibile ottenere una piena e legittima prova per mancanza di documenti o testimoni, è permesso ai Superiori locali procedere attraverso indizi, congetture e presunzioni, che possano persuadere un giudice prudente a presumere il decesso del coniuge assente, e a dichiararlo legalmente tale, affinché l'altro coniuge possa legittimamente e legalmente (1) contrarre un altro matrimonio. (1) Ho detto, affinché l'altro coniuge possa legittimamente e legalmente contrarre un altro matrimonio: legittimamente, infatti, affinché sia valido davanti alla Chiesa, cioè nel foro esterno, per un altro matrimonio.

[*Latin ed. p. 442*]

442 INSTRUCTION CONCERNING THE PROOF OF DEATH, ETC. IV. The facts can be demonstrated in two ways: either through witnesses or documents worthy of belief, which directly and immediately demonstrate the facts; this is called legitimate proof. Or, through a collection, greater or lesser, of indications, conjectures, and presumptions, which collection

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cannot be prudently explained unless it is assumed that the fact in question has occurred. This second method of proving facts, although not strictly legitimate, is called equivalent, and in judgments, when the first legitimate proof is lacking, it is often admitted with the prudent judgment of the judge. It is possible to estimate the value of a testament and to consider it valid, once the doubt has been removed. However, it is permissible for a spouse, through his or her conscience and by requesting and rendering the marital debt in a proper manner, to declare the presumed death of the other spouse, with the authority of the Church.

APPENDIX IX. INSTRUCTION OF THE HOLY OFFICE, ISSUED BY CLEMENT X TO ORDINARIANS AND OTHERS, TO BE USED IN LEGITIMATELY ASCERTAINING AND ACKNOWLEDGING THE STATUS OF THOSE WHO WISH TO CONTRACT MARRIAGE. "A decree was issued in a general congregation of the Holy Roman and Universal Inquisition, held in the Apostolic Palace of the Quirinal, before Our Most Holy Lord Clement, by the divine providence Pope X, and the Eminent and Reverend Cardinals of the entire Christian republic, as general inquisitors specially appointed by the Holy Apostolic See. On Friday, the 21st of August, 1667. A. Cum alias per Sacram Congregationem!" S. Officii, through repeated instructions issued by the same from the years 1658 and 1665, and transmitted to the Ordinarians of the places, it was provided that, when conducting the prescribed interrogations with witnesses who are brought in to prove the freedom of those contracting marriage, all access should be completely excluded to those who, while the other spouse is still living, or are otherwise impeded, have taken illicit vows; nevertheless, Our Most Holy Lord has seen that several Ordinarians, or their Vicars and delegates who are responsible for receiving the testimonies of witnesses, as well as the Parish Priests and Notaries, in certain cases, either omit or do not observe these instructions.

[*Latin ed. p. 443*]

x ix. [The tenor, and although sometimes they fully observe [the law], they do not question witnesses regarding other impediments that are removed.] § 1. Therefore, desiring to address these evils, and having maturely considered them with the Most Eminent and Most Reverend Cardinals, General Inquisitors, Holiness hereby again commands all Vicars or delegates responsible for examining witnesses to prove the freedom of the contracting parties from marriage, as well as to the Parish Priests, Notaries, and all others concerned, under even severe corporal penalties at the discretion of the Holy Congregation, that they observe the following instruction to the letter. § 2. In order that the present Decree and instruction may more easily come to the knowledge of all, Holiness has decreed that they be published at the doors of the Basilica of the Prince of the Apostles, and at the Chancery of the Apostolic Palace, and in the Field of Flowers in the

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City, and at the Palace of the Holy Office in the same City, by one of the Courtiers of Holiness; and that copies thereof be left affixed there; and that, once so published, all and each of those to whom it pertains shall be bound and obliged, from two months from the day of publication in the City, as if each of them had been personally notified and informed thereof. 443 Instruction for the examination of those witnesses who are called to testify in matters of marriage, both by the Most Eminent Cardinal of the City, Vicar, and in other courts of other Ordinaries. I. First, the witness should be warned of the gravity of the oath in this matter, especially since divine and human majesty are offended because of the importance and gravity of the matter under consideration, and that the penalty for giving false testimony is threefold and involves weariness (1). II. He is questioned about his name, surname, country of origin, age, occupation, and residence. III. Whether he is a citizen or a foreigner, and if a foreigner, for how long he has been in the place where the witness is giving testimony. IV. Whether he came to the examination voluntarily, or was summoned: if he says that he came voluntarily without being summoned by anyone, he shall be dismissed, because he is presumed to be lying; but if he says that he was summoned, he shall be questioned by whom or by whom, where, when, how, before whom, and how many times he was summoned, and whether he knows of any impediment between those who wish to marry. V. He is questioned whether anything has been given, promised, remitted, or taken away by those who wish to marry, or by another on their behalf, for this testimony. (1) It is not necessary to point out that such corporal penalties, according to the nature of those times, are no longer in common use.

[*Latin ed. p. 444*]

444 APPENDIX I X. »VI. He is questioned whether he knows if the parties intend to marry, and for how long, in what place, on what occasion, and of what quality or condition they are. » If he answers negatively, the witness is dismissed; if, however, he answers affirmatively, » VII. He is questioned whether those intending to marry are citizens or foreigners. If he answers that they are foreigners, permission to marry is suspended until, by letters from the Ordinary, it is demonstrated that those intending to marry are free from any impediment from the time they remained in their city or diocese. To prove the freedom from impediment of those intending to marry for the remainder of the time, that is, up to the time they intend to marry, suitable witnesses are admitted, who legitimately and clearly testify to the freedom from impediment of those intending to marry, and give a sufficient reason for their knowledge, without being obliged to present attestations from the Ordinaries of the places where those intending to marry have resided. » If, however, he answers that those intending to marry are citizens, » VIII. He is questioned under which parish those intending to marry have resided or presently reside. » Also, whether the witness knows

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if any of those intending to marry have ever had a wife or husband, or have professed vows in an approved religious order, or have received Holy Orders, namely, subdiaconate, diaconate, or the priesthood, or have any other impediment by reason of which marriage cannot be contracted. » If the witness answers that none of those intending to marry have had a wife or husband, nor any other impediment as mentioned above, » IX. He is questioned about the reason for his knowledge, and whether it is possible that any of them may have a wife or husband, or another impediment, etc., and that the witness is unaware. » If he answers affirmatively, permission to marry is suspended, unless it is clearly proven by other witnesses that none of them have had a wife or husband, nor any other impediment, etc. » If, however, he answers negatively, » X. He is questioned about the reason for his knowledge, from which the judge may then determine whether the witness's testimony is to be believed. » If he answers that the person intending to marry has had a wife or husband, but that they are deceased, » XI. He is questioned about the place and time of their death, and how the witness knows that they were married, and are now deceased. And if he answers that they died in a certain hospital, or that he saw them buried in a particular church, or that they were buried by soldiers during military service, permission to marry will not be granted unless first a genuine testimony is received from the rector of the hospital in which the aforementioned persons died, or from the rector of the church in which their bodies were buried, or, if possible, from the commander of the cohort in which the aforementioned soldier served. However, if such testimonies cannot be obtained, the Holy Congregation will not...

[*Latin ed. p. 445*]

445. At least through witnesses, who shall have the proper credentials and seal, and it must be carefully considered whether the faith or testimonies clearly and conclusively identify the persons in question. For witnesses in this matter, relatives are to be preferred over strangers, because they are presumed to be better informed, and citizens are to be preferred over foreigners; nor shall vagrants and soldiers be admitted, unless there is a valid reason and due deliberation. The Notary shall accurately describe the person of the witness; if he knows the witness, he shall use the phrase "well known to me"; if he does not know the witness, he shall not admit the testimony unless, together with the witness, another person known to the Notary is present, and who shall testify to the name and surname of the witness, as well as to the witness's suitability to give testimony. And in such examinations, in addition to the Notary, an Official specially appointed by the Examining Judge shall be present; if outside the city, either the Vicar of the Bishop, or some other prominent and suitable person specially appointed by the Bishop. Many sessions, XXIV (1).

(1) In the chapter Many, session M, of the Council of Trent concerning

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the Reform of Matrimony, the Council of Trent decreed: "Many are those who wander and have uncertain abodes, and, as if they were wicked in their very nature, having left their first wife, they lead another, and often several, in different places while the first is still living. Wishing to remedy this vice, the Holy Synod warns all to whom it pertains, not to readily admit such wandering people into marriage; the secular magistrates are also urged to severely restrain them. The pastors, however, are commanded not to celebrate their marriages, unless they have first made a diligent inquiry and reported the matter to the Ordinary, and have obtained permission from him to do so."

> Fides and other documents which are to be considered: otherwise, the Notary shall be punished at the discretion of the Holy Congregation, and the Notary shall not allow such documents to be produced, unless they are provided with the seal and legal validity of the Ordinary Bishop, and it is intended to exclude other proofs, which may be admitted by common law, provided they are legitimate and sufficient.

> XII. It is asked whether, after the death of the aforementioned spouse, any of the aforementioned parties have taken holy orders. If the answer is negative,

XIII. It is asked whether it is possible that any of them have taken holy orders, without the witness knowing it. If the answer is affirmative, the license shall be suspended until witnesses are produced, by whom the affirmative answer may be conclusively refuted. If, however, the answer is negative,

XIV. It is asked about the cause of the knowledge, upon which, the judge may be able to judge whether the license should be granted or not. If the contracting parties are vagrants, no progress shall be made towards granting the license, unless they prove through the faith of their Ordinaries that they are free, and in all other respects, the form of the Council of Trent shall be observed.

[*Latin ed. p. 446*]

44 G APPENDIX IX. n The Ordinary shall order that all be compelled to report truthfully, and that in each parish within their dioceses, concerning those marriages which have been celebrated, that the witnesses who have examined the parties intending to enter into such a marriage, and who attest to their freedom from impediments, shall draw up publications in their churches, unless they are certain, and shall present them to the Ordinary, or to his General Vicar, before whom they shall be punished severely.» n S. CONGREGATIONIS DE PROPAGANDA FIDE INSTRUCTIO DE CONIUGIIS ROMAE 1821 Venerable Brothers, Bishops, Apostolic Vicars in the Empire of China, and in the adjacent Regions, and Provinces (1) VENERABLE BROTHERS: "The question of irregular and clandestine marriages among the Chinese has long troubled both Your Lordships, Ven-

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erable Brothers, and the laborers of the Sacred Order who toil in this difficult field; and it has also greatly occupied the studies of this Holy Congregation. And this not only because (1) We refer this Instruction not to signify the law that prevails in China, nor whether or not it is enforced by the force of this Instruction: but we refer it because it explains the common law concerning marriages for places in which the Tridentine Decree has not been promulgated. Nevertheless, it suggests a norm for the observance of that same Decree in places in which it has indeed been promulgated, but in which it is nevertheless impossible fully to observe it. This norm also pertains to the common law in these circumstances of impossibility, so that the entire Instruction contains nothing that does not pertain to the common law.

[*Latin ed. p. 447*]

INSTRUCTION REGARDING SECRET MARRIAGES. 447 The reason for which St. Augustine declared the question of marriages to be the most obscure matter obscuring the light of the Church; but what is most to be lamented is that, due to the corruption of men, the honorable bond of marriage and its beauty are obscured. Therefore, in order that this great Sacrament may be restored and its honor maintained, the Holy Congregation, concerned about this matter, has prepared the present Instruction, which it sends to you, Venerable Brothers, so that you may communicate it to Missionaries, Parish Priests, and Confessors. But the matter must be explained in order, from the beginning.

I. Indeed, in your letters, as you well remember, you have repeatedly written to this Holy Congregation, indicating that a wicked custom has arisen among many Christians, unworthy of that name, such that, after having begun the marriage ceremony and having had carnal intercourse with a woman, they contract a marriage with another, while observing the laws of the empire and the customary rites of the Church there. Concerning this matter, you anxiously and out of charity, for the sake of those entrusted to your care, have requested a remedy suitable for the growing disease among those peoples; and you have inquired whether the first kind of union, or the second, has the force of a true marriage, when within the boundaries of the Chinese Empire and the surrounding kingdoms and provinces, the Decree of Trent concerning marriage had not yet been promulgated.

II. And indeed, the Holy Congregation has earnestly urged you and your collaborators to strive in every way, both privately and publicly, and especially in the administration of the Sacrament of Penance, to deter the faithful from secret marriages, which the Holy Church of God has always detested and prohibited for just reasons; and from which grave sins arise: especially those who remain in a state of damnation, having abandoned their former wife, with whom they had contracted marriage, and publicly contract marriage with another and live with her in perpetual adultery,

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must be severely admonished and warned under the threat of Divine judgment. Furthermore, not content with these warnings drawn from the clear sources of the Council of Trent, in order to resolve the proposed question, and also from pure sources of Pontifical law, it has promulgated the prescription of Gregory IX, Pope, accepted by all Catholics, concerning the case of "He who..." regarding betrothals and marriages; for when the Pope was asked what should be done...

[*Latin ed. p. 448*]

448 INSTRUCTION REGARDING CLANDESTINE MARRIAGES. Concerning a man who, after having entered into a betrothal with a woman, and having lived with her in a conjugal manner, subsequently took another wife in the sight of the Church, and gave the following response: "He who has given his faith to a woman, that he wishes to take her as his wife, and if afterwards he knows her carnally, and takes another in the sight of the Church, is bound to return to the first: because although the first marriage may seem presumed, nevertheless, proof to the contrary is not to be admitted against such a presumption. Therefore, it follows that the marriage subsequently contracted is not a true marriage, but is null." This prescription was submitted by the Sacred Congregation for your consideration from the year 1786, and again in the year 1804. His Eminence, Cardinal Stephen Borgia, of blessed memory, writing in the name of the Sacred Congregation, to you alone, namely, to the Apostolic Vicar of Cochinchina, explained that it was to be maintained.

III. Now, having seen such a remedy and counsel offered by the Sacred Congregation, one hoped that, with God's help, there would remain nothing, or very little, to be done to properly establish the marriages of those Christians and to prevent clandestine unions. However, after a few years, he received letters from the same Apostolic Vicar of Cochinchina, in which, among other things, he stated: "The reason why observance of these matters cannot be induced in those regions, or scarcely at all, is due to the invincible ignorance of the laws of China. Among those who have diligently worked to instruct the people in the word of God, there is almost no one who has taught that a valid marriage should be considered in the external forum after a clandestine union. Moreover, it will be difficult to teach this from now on, due to the very serious inconveniences to be feared, and especially because of the scandals that will arise, both among Christians and among Gentiles, whose firm belief is that a just marriage consists of nothing other than that which has been celebrated in the sight of the Church, or according to the laws of the civil government."

IV. Having received such letters, the Sacred Congregation did not deliberate on anything before previously sending letters to all of you, Venerable Fathers, in which, as you know, it inquired about the origin of opinions among those peoples regarding just and illegitimate marriages, about the

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entire doctrine concerning marriages explained by the Missionaries, about the ecclesiastical and civil rites of marriage, and about the inconveniences and dangers to be feared, if, at any time, the aforementioned observance were to be introduced among the Chinese.

[*Latin ed. p. 449*]

INSTRUCTION REGARDING SECRET MARRIAGES. 449 » V. You have indeed informed the Sacred Congregation with responses that are largely in agreement: which might have fully satisfied the Most Eminent Fathers, were it not that, in a matter of such importance, they believe that the utmost diligence and the greatest prudence are required. Therefore, letters from the Sacred Congregation, bearing your name, have reached you, and from you, new responses have been given, from which the following doubts have been formulated. » Doubt I. (which is the seventh in the series): In China, Cochinchina, and the regions of Tunchin, where the Decree on Marriage of Trent has not yet been promulgated, does the subsequent union of a man and woman constitute a true marriage, even if the spouses, having cohabited not with marital affection, but moved by lust, believe that they have fallen into an illicit and adulterous act, and therefore do not consider that a just marriage has been contracted, and consequently, they do not believe that they have had their freedom taken away from them to enter into other vows, when this belief is prevalent among those peoples? » Doubt II. (which is the eighth in the series): What advice should be given to the Missionaries in those regions regarding the manner in which they should act, especially in the administration of the Sacrament of Penance, with those faithful who, after having had a union with one woman, have publicly contracted marriage with another, which they themselves believe to be just and valid? » Doubt III. (which is the ninth in the series): What advice or instructions should be given to Apostolic Vicars and Missionaries, as a suitable remedy for curbing secret marriages, and for preventing the most grievous damages that result from them? » To better clarify and more accurately address these doubts, it is important to note: It seems incredible to the Most Eminent Fathers that the belief mentioned in Doubt I is so widespread among the Chinese, that it can be considered common: namely, that those who have had a clandestine union do not have their freedom taken away from them to enter into other vows. Indeed, since the Sacred Congregation has prescribed that these laws should be explained to those peoples whenever the opportunity arises; and since it has been observed that you are accustomed to follow the advice and instructions of the Sacred Congregation with great diligence and care, and furthermore, that after receiving such advice and instructions, nothing has been renounced by you regarding that belief for many years; therefore, the Most Eminent Fathers

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believe that the Missionaries and Catechists... [The text is incomplete here.]

[*Latin ed. p. 450*]

450 INSTRUCTION REGARDING SECRET MARRIAGES. It has been taught, not always, but as the circumstances require, to some, and others have been able to teach it further. And indeed, one of you recounted that a certain Missionary openly taught before many laymen that the marriage vows exchanged after carnal intercourse between the betrothed should be judged according to the laws of the Church as a true Marriage, unless the contrary is clearly demonstrated. From this action, it is easily understood that other Missionaries have taught the same, albeit less clearly, and that those laymen have readily communicated this most important rule of the Church to other faithful. Therefore, there will be few, but there will be some, among whom this belief does not prevail; there will be many among whom it does prevail. Therefore, this belief will stand on one leg, and will fall on the other. "Therefore, Venerable Fathers, provide suitable counsel and documents for both groups of the faithful." To ensure that this is done accurately, consider what is presented by Father Pirhinghius, a most learned commentator on the sacred Canons, to clarify this matter. For he adds the following in book IV, Decretal, Title I, section I, § 5, after the aforementioned rule, or prescription, of Gregory IX: "The reason is that the Church, from the carnal union, presumes a conjugal consent in the betrothed, to exclude sin, that is to say, that the bridegroom and bride intended to know each other not in a fornication, but in a marital manner; because a crime is not presumed, and this is a presumption of the law, and therefore, by law, it is entirely certain and indubitable, against which no proof is admitted; and consequently, the bridegroom would not be heard asserting that he did not know the bride in a marital manner, or with the intention of contracting marriage with her." Covarr. in Epitome Lib. IV. Decret., p. I, Cap. IV, § 1, numbers 1 and 2. It is confirmed that the carnal union that follows after betrothal is a sufficient sign of present consent to marriage, and the betrothed are considered by it to have given themselves to each other; this presumption is valid only in a contentious and judicial forum, but not in the forum of conscience and penance. Therefore, if the bridegroom truly knew the bride not in a marital manner, but in a fornication, there would not be a true Marriage in the forum of penance and before God, because the Pope cannot make a true Marriage without expressed or tacit consent; Hostien, here, column 2, at the end; Fagnan, here, numbers 6 and 7. Thus far, Father Pirhinghius.

[*Latin ed. p. 451*]

INSTRUCTION ON CLANDESTINE MARRIAGES, 45: Those who present this doctrine affirm that it is widespread among all commentators on Canon Law. Therefore, let them stand firm, let them persevere. Indeed,

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even in those regions where the Decree on Marriage promulgated by the Council of Trent has not been published, if the bridegroom and bride have not united with each other with marital affection, but rather with a carnal intention, their betrothal does not, for this reason, pass into a true marriage before God, and therefore, before God, or in the forum of conscience, they do not lose the ability to enter into other marriages, if a legitimate opportunity for dissolving their previous betrothal should present itself. Furthermore, if the union is brought before the external and judicial forum, they could be considered by an ecclesiastical judge as legitimate spouses, and therefore, as long as one of them lives, they would be prohibited from any other marriage, because this is a presumption of the law, and de jure, that is, certainly and without doubt, against which no proof is admitted: and consequently, the bridegroom would not be heard to assert that he did not know the bride with marital affection, or with the intention of entering into marriage with her. Given these circumstances, the Sacred Congregation believes that the seventh question should be answered in this way: If, in the aforementioned regions where the decree of the Holy Council of Trent has not been published, two betrothed persons subsequently have carnal intercourse with each other, but not with marital affection, but rather with an illicit and carnal intention, this union does not cause their previous betrothal to pass into a true marriage before God, or in the forum of conscience; they remain free, and they will be able, if their aforementioned betrothal has been dissolved for some legitimate reason, to lawfully enter into other marriages. Nevertheless, if their union is proven in the external and judicial forum, they can, by the presumption of the law and de jure, against which no proof is admitted, be considered by ecclesiastical authority as true spouses, to whom, as long as the spouse lives, any marriage is forbidden, according to chapter 30 of "De Sponsalibus et Matrimonio." But a distinction must be made to address the second question, which is the eighth in the series presented; namely, what advice should be given to missionaries in those regions regarding the manner in which they should deal with those faithful who, after having a betrothal and intercourse with a woman, have publicly entered into marriage with another, which they themselves have done in good faith.

[*Latin ed. p. 452*]

452 INSTRUCTION REGARDING SECRET MARRIAGES. They inquire whether such unions are valid? Since those who enter into such unions ought to exercise diligence and caution, the Fathers have decreed. The confessor should also question the penitent, whether he has been united with that woman in a marital act, or in an illicit and adulterous act. If the penitent answers that he has been united with that woman in a marital act, he should be severely admonished, that he is not the husband of another, but of the first, and that he ought, for this reason, to go to her, according to what

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is often mentioned in the aforementioned chapter concerning prescription. But the missionaries should also have this caution before their eyes: namely, if it should happen that the penitent, in the forum of conscience, cannot in the least approve of the carnal union he has had with that woman, and therefore is led to the judgment of the ecclesiastical judge, in order to maintain the validity of the marriage contracted before the Church; in such a case, he ought to patiently endure even the sentence of excommunication, rather than, being certain of the impediment, to ensnare himself in the bond, while he is concupiscent with another, not without grave guilt. For it is the prescription of Innocent III, Pope, in Cap. 44 of the Decretum, expressly stated: "If either of the spouses, (that is he), knows for certain an impediment to marriage, for which reason carnal commerce is not licit without mortal sin, although it may not be approved by the Church, he ought rather to patiently endure the sentence of excommunication, than to commit a mortal sin through carnal commerce" (1).

From what has been considered thus far, the response to this is as follows: "In answering your inquiry, we believe that a distinction must be made, whether one of the spouses certainly knows an impediment to marriage, for which reason carnal commerce is not licit without mortal sin, although it may not be approved by the Church, or whether he does not certainly know, but believes. In the first case, he ought rather to patiently endure the sentence of excommunication, than to commit a mortal sin through carnal commerce. In the second, we distinguish, whether he has such conscience through slight and rash credulity, or through probable and prudent judgment; and indeed, with slight and rash credulity, he may licitly not only render, but even demand, the due conjugal rights. But when conscience presses the soul through probable and prudent judgment, although not evident and manifest, he may indeed render the due rights, but he ought not to demand them, lest he offend the other, or act against the law of marriage, or against the judgment of conscience."

[*Latin ed. p. 453*]

INSTRUCTION REGARDING SECRET MARRIAGES. 453. The Sacred Congregation has decreed as follows: If any of the faithful, after having entered into a marriage and cohabited with one woman, publicly contracts marriage with another woman, and in this state approaches a Missionary in the Tribunal of Penance, he must be questioned by the Missionary as to whether he had intercourse with the first woman out of marital affection, or whether it was out of illicit and adulterous affection. If he answers the latter, no doubt will be raised with him concerning the validity of his present marriage. But if he answers the former, he must be severely admonished, that he is the husband not of the second, but of the first woman, and that he must absolutely return to her. Furthermore, it is added to the instructions of these Missionaries, that if this man, being unable to prove in the external

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forum that he had carnal intercourse with the first woman, is compelled by ecclesiastical authority to remain with the second woman with whom he publicly contracted marriage, he ought rather to endure any penalty, and even excommunication, than to engage in carnal commerce with this second woman, without mortal guilt, according to Chapter 44 of the Decrees on Excommunication.

Now, what counsel should be given to you, Reverend Fathers, and to those who labor in the Dominick mission in China, so that secret unions may be more easily prevented, and scandals and the most grievous harms that might arise from them may be cut off, which was the matter proposed in the aforementioned doubt. Certainly, it cannot be denied that the most effective means and safeguard for preventing secret unions is the promulgation of the celebrated Tridentine Decrees on Marriage by the Church. And the Apostolic See, whenever it has seen fit to bring this promulgation to the attention of Bishops and Apostolic Vicars, has spared no effort to make it easy for them, and to prescribe a remedy suited to this disease, as it did in the Archiepiscopal See of Kyiv, an example of which one of your own number, the Reverend Apostolic Vicar of Cochinchina, has mentioned in his writings.

But with regard to the example of Kyiv, which is most relevant to our matter, it should be read in the excellent work of Benedict XIV, Pope, entitled "De Synodo Dioecesana," Book XII, Chapter V, sections 8, 9, 10, and 11; and also the Constitution "Etsi Pastoralis," section 5, concerning the Sacrament of Marriage, number 1. "Let the Ordinaries of the places see to it that the Decree of the Holy Council of Trent on the reform of Marriage be observed in the places and parishes of the Greeks and Albanians."

[*Latin ed. p. 454*]

454 INSTRUCTION REGARDING CLANDESTINE MARRIAGES. Whenever it shall seem expedient, it shall be proclaimed and made public. But it is also certain that, should the promulgation of this Decree have taken place, and the observance of the prescription regarding the presence of the Parish Priest could not, in those places, be observed in any way, either because the Parish Priest is entirely absent, or because he is difficult to reach, the Apostolic See has declared that, in those places, the presence of witnesses is sufficient to validly establish marriages; so that, although the entire Decree cannot be observed, whatever can be observed, should be observed. "Indeed, the Most Eminent Fathers, considering the prudent economy of the Apostolic See in such matters; also, carefully and thoughtfully considering the letters repeatedly sent by you, Venerable Fathers, to the Sacred Congregation on this matter; and also considering the civil and religious reasons, and the very nature of the Empire of China, together with the provinces and kingdoms thereof, have judged that, if it pleases His Holiness, in those places where it shall be

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deemed expedient, care should be taken to properly promulgate the entire Decree of the Council, or at least, as far as possible, to observe the rules previously stated. "Therefore, all and each marriages that shall hereafter be celebrated among the Chinese shall be considered valid and lawful, provided they are entered into before a Parish Priest or Missionary, or any other legitimately designated person, and two or three witnesses, and, if possible, Christian witnesses. In those places, however, where the entire Decree cannot be promulgated, or if the Decree has been promulgated, but the Parish Priest, or another legitimately designated person, is absent, or is not easily accessible, marriages may be entered into, even without the Parish Priest, before at least two witnesses, and, if possible, Christian witnesses; but in such cases, those entering into the marriage shall be obligated, by law, to present themselves before a Missionary or Parish Priest whenever possible, so that they may receive the blessing from him in due form. The Missionary or Parish Priest, when he has ascertained the consent of the spouses, before blessing them, shall inform them that such blessing pertains only to the form of the marriage, and not to its validity; and therefore, he will not require them to express their consent again with new words. "Finally, so that the memory of the Council of Trent, and the law, may not become obsolete, the Holy Congregation desires that, whenever the opportunity arises, the Missionaries explain this to those entrusted to them, and declare it according to the rules explained above. It is indeed expedient that they, especially the young, be informed."

[*Latin ed. p. 455*]

INSTRUCTION CONCERNING CLANDESTINE MARRIAGES. 453 Let young virgins understand this, so that they may not be deceived, and that they may not subject themselves to any shameful act through secret and invalid marriage promises. And this method and reasoning is what the Holy Congregation considers to be the best way to prevent irregular and clandestine unions, so that, with God's help, the sacred Sacrament may restore its honor among many who have lost it. This opinion of the Holy Congregation, which I, the undersigned Secretary of the same Holy Congregation, submitted to His Most Holy Lordship, Pope Pius VII, by divine providence, was benevolently approved by His Holiness on January 14, 1821, and He ordered that it be strictly observed. Given in Rome, from the offices of the Holy Congregation, on the 17th day of the aforementioned month and year. C. M. Pedicini, Secretary.

FROM WHICH YOU MAY GATHER:

I. In places where the Decree of Trent has not been promulgated, or even if it has been promulgated but is not observed, marriages among the faithful are to be governed according to the ancient law of the Church.

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II. Among the principles of the ancient law, it is prominent that if, after a betrothal has been contracted, carnal union follows, the marriage is considered to have been consummated by that very act.

III. This principle of law has such force that, in civil court, if it is established that betrothals were entered into and that carnal union followed, the spouse cannot be heard to say in court that he or she did so without the intention of entering into or consummating the marriage.

IV. The presumption of the law stems from the very fact itself, by which, given the fact, it is rightly and legally presumed that the union was entered into with the intention of fulfilling the betrothal; and this presumption, arising spontaneously from the fact, and being confirmed by common law, appears to be a presumption of law and of right.

V. However, this very valid presumption, for the external forum, can be easily overcome in the internal forum by the confession of the spouse, who states that he or she entered into the union only with the intention of fornication, and not with the intention of marriage.

[*Latin ed. p. 456*]

456. INSTRUCTION REGARDING CLANDESTINE MARRIAGES. VI. In this case, when no marriage has taken place due to a lack of consent, the internal forum cannot be opposed to the external forum; and therefore, the presumed spouse who, by chance, has contracted another marriage, must, in the external forum, be considered to incur any penalty, rather than to cohabit with the first presumed spouse. VII. The publication of the Tridentine Decree in each parish, even if, due to the absence of the appointed Parochial Vicars or Priests, the Decree cannot be observed, nevertheless alters the state of affairs, so that the old law ceases, and the Tridentine law is introduced, according to which future marriages do not become valid through subsequent cohabitation, but the marriage must be celebrated before two witnesses; thus, the Tridentine form must be observed as much as possible. FROM THE SECRETARY OF STATE, INSTRUCTION TO ALL ARCHBISHOPS, BISHOPS, AND OTHER ORDINARY LOCALS REGARDING DISPENSATIONS REGARDING THE IMPEDIMENT OF MIXED RELIGION WITH RESPECT TO MIXED MARRIAGES (1). "Although the Most Holy Pope Pius IX, moved by very serious reasons, has considered it necessary to make some changes in the formula of dispensations which are granted by this Apostolic See for entering into marriages between persons of different religions, as Your Eminence will understand from the attached formula, nevertheless, the same Supreme Pontiff, most concerned for the salvation of the entire flock of the Lord, which has been divinely entrusted to Him, cannot but most strongly urge all Archbishops, Bishops, and other Ordinary Locals, to observe the most holy Catholic Church (1) This Instruction regarding mixed marriages is the most recent of all, and mixed marriages

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are permitted according to it by the Holy See.

[*Latin ed. p. 457*]

INSTRUCTION REGARDING MARRIAGES BETWEEN PERSONS OF DIFFERENT RELIGIONS. 457. The documents pertaining to these marriages must be kept complete and inviolate, with the utmost religious care. For all know what the Catholic Church has consistently held regarding such marriages, whether between Catholics and non-Catholics, always condemning them, and considering them illicit and utterly harmful, both because of the scandalous communion in divine matters, and because of the grave danger of perversion for the Catholic spouse, and because of the corrupt institution of marriage itself. And to this pertains the most ancient canons which severely prohibit such mixed marriages, and the more recent decrees of the Supreme Pontiffs, of which the Immortal Memory of Benedict XI speaks in his Encyclical Letters to the Bishops of the Kingdom of Poland, and in the most celebrated work which is inscribed concerning the Diocesan Synod. Therefore, it follows that this Apostolic See, to which alone the power of dispensing with this impediment of mixed religion belongs, if, while mitigating something of the severity of the canons, it sometimes permits these mixed marriages, it does so with great reluctance, and only under the express condition of preliminary and appropriate precautions, so that, indeed, the Catholic spouse may not be perverted by the non-Catholic, and that the Catholic spouse himself should strive with all his strength to draw the non-Catholic away from error; and also, that all the children of both sexes born from these mixed marriages must be entirely educated in the sanctity of the Catholic religion. These precautions can never be waived or dispensed with, since they are founded on the natural and divine law, which the Church, and this Holy See, strive with all diligence to protect, and against which, without a doubt, those who recklessly enter into these promiscuous marriages commit a very grave sin, exposing themselves and the children they may have to the danger of perversion. Furthermore, in granting such dispensations, in addition to the aforementioned precautions, which must always precede and concerning which no dispensation can ever be granted, there have also been added conditions, that these mixed marriages must be celebrated outside the Church, and without the blessing of the parish priest, and without any other ecclesiastical rite. These conditions are intended, above all, to ensure that the memory of the canons which detest such mixed marriages, and of the steadfastness of the Holy Mother Church, which has never abandoned her children, is never erased from the minds of Catholics.

[*Latin ed. p. 458*]

458 INSTRUCTION REGARDING MIXED MARRIAGES. To avert and deter from those very mixed marriages, and to prevent the ruin of both the

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parties and of the future offspring. "Indeed, with regard to the aforementioned conditions concerning these mixed marriages, celebrated outside the Church, and without the blessing of the parish priest, and with another sacrilegious rite, since the very conditions have been clearly and openly stated in many Decrees granting dispensations, while in others they have not been explicitly expressed, although they are implicitly contained in those same Decrees, therefore, Our Most Holy Lord, with supreme and singular prudence, has deemed it necessary to eliminate this variety of formulas, and has ordered that, in the future, one and the same formula be used by all Congregations through which this Apostolic See usually grants dispensations regarding this impediment of mixed religion. Therefore, after carefully considering all matters, taking into account the circumstances of the times, and considering those things which have been presented by several Bishops, and after consulting with certain Cardinals of the Holy Roman Church, the same Most Holy Lord has decreed that, in granting these dispensations, the formula of that Decree should be used, by which, even if the aforementioned conditions concerning these mixed marriages, celebrated outside the Church, and without the blessing of the parish priest, and with another ecclesiastical rite, are not explicitly declared, they are nevertheless implicitly contained. And His Holiness strongly admonishes, encourages, and exhorts all Archbishops, Bishops, and other Local Ordinaries in the Lord, and commands them that, when they subsequently obtain from this Holy See the faculty of granting dispensations regarding the impediment of mixed religion, they never cease, with all diligence and care, to diligently fulfill the conditions concerning these mixed marriages celebrated outside the Church, and without the blessing of the parish priest, and with another ecclesiastical rite. But if, in some places, the Sacred Pastors should know that these conditions cannot be fulfilled, and that greater harm and evils will result, in such a case, His Holiness only entrusts the avoidance of such greater harm and evils to the prudent judgment of those same Sacred Pastors, so that they, always and diligently preserving the safeguards for removing the danger of perversion from the Catholic spouse, may consider the conversion of the non-Catholic spouse."

[*Latin ed. p. 459*]

INSTRUCTION REGARDING MIXED MARRIAGES. 459 by the very spouse. Concerning the endeavors to be made by the Catholic party to maintain the faith, and concerning the entire offspring of both sexes, to be entirely educated in the Holy Catholic Religion, the authorities will judge when the aforementioned conditions cannot possibly be fulfilled in mixed marriages contracted outside the Church, and without the blessing of the parish priest, and when the practice of applying the rite prescribed in the diocesan Ritual for contracting marriages can be tolerated in such mixed marriages, always excluding the celebration of Mass, and with the utmost

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consideration of all circumstances, places, and persons, and with the consciences of the authorities themselves burdened by the truth and gravity of all circumstances. Moreover, His Holiness earnestly desires that these ecclesiastical authorities keep such indulgence, or rather tolerance, entirely entrusted to their discretion and conscience, with the greatest possible silence and secrecy. Furthermore, it may happen that these authorities have not yet carried out the Rescripts concerning similar dispensations, which were granted to them before this Instruction; therefore, in order to remove all doubts, His Holiness has ordered that these authorities must follow this Instruction in carrying out the aforementioned Rescripts. "His Most Holy Lordship does not doubt that all ecclesiastical authorities, considering their religion, piety, and the office of their pastoral ministry, will strive with even greater zeal to prevent Catholics from entering into mixed marriages, and to instruct them accurately in the doctrine of the Catholic Church, and in the laws pertaining to such marriages, and His Most Holy Lordship is convinced that these ecclesiastical authorities will always have before their eyes the letters and instructions which were issued by their blessed predecessors, and especially by Pius VI (1), Pius VII (2), Pius VIII (3), and Gregory XVI (4), namely: (1) Letter to the Archbishop of Mechlin and the Bishops of Belgium – to be executed from this day, June 13, 1782. (2) Letter to the Archbishop of Mainz – although from your Fraternity, dated October 8, 1803. (3) Letter to the Archbishop of Cologne, and the Bishops of Trier, Münster, and Paderborn – by one letter dated March 25, 1830, and Instruction to the same Archbishop and Bishops, dated March 27, 1830. (4) Letter to the Archbishop and Bishops of Bavaria: — With utmost diligence — dated May 27, 1832. Instruction to the same, dated September 12, 1834. Letter to the Archbishop and Bishops of Hungary: — Quas vestro — dated April 30, 1841. Instruction dated April 30, 1841. Instruction to the Archbishop and Bishops of the Austrian territories in the German Confederation, dated May 22, 1841.

[*Latin ed. p. 460*]

460. INSTRUCT THIS [DOCUMENT] FOR MIXED MARRIAGES. This most serious matter, and of the greatest importance, has been written to several Bishops of the Catholic world. "These things were to be made known to your Eminences by order of the Most Holy Lord Pope Pius IX, for whom there is nothing more dear, nothing more ancient, than that the doctrine and discipline of the Catholic Church be everywhere preserved and maintained, unharmed." Given in Rome on the 15th of November, 1858. I. CARD. ANTONELLI.

FROM WHICH YOU MAY GATHER:

I. Mixed marriages are universally prohibited by ecclesiastical law, and

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disapproved of by natural law, due to the danger of perversion, but, in certain places where it is requested, the Holy See, with benevolence, permits them under certain conditions and precautions.

II. The precautions, as conditions to be observed, are that the Catholic spouse, who is bound to strive for the conversion of the heretical spouse, may not be perverted by the non-Catholic, and that all the children be entirely educated in the Catholic faith.

III. By means of such precautions, the danger of perversion is removed, as far as possible, which is the reason why mixed marriages are disapproved of by the law of nature.

IV. So that such marriages do not appear to be approved by ecclesiastical law, and so that the Church does not appear to be communicating in divine matters with heretics, the celebration of these marriages is prohibited within the church, and with the blessing of the parish priest.

V. However, in urgent circumstances, it is to be cautiously tolerated, at the judgment of the sacred prelates, to use some part of the Catholic rite in celebrating such marriages, but always excluding the celebration of the Mass, lest the heretical spouse should seem to be admitted to the fruits of so great a sacrifice.

[*Latin ed. p. 461*]

461 TO THE HOLY CONGREGATION CONCERNED WITH THE COUNCIL OF TRENT. REGARDING A MATTER OF MARRIAGE. Presented on January 24th and March 24th, 1871. Summary of the case. The young woman Maria P., from the diocese of N., petitioned the Most Holy Father, explaining the following: Antonius N., while contemplating the commission of homicide in the city of A, the same Antonius's homeland, in order to more easily evade the punishment for the crime, left that city of A and went to the city of B, the homeland of the petitioner, and requested the petitioner in marriage, and before the Church, they celebrated their marriage on September 18th, 1861. After receiving the nuptial blessing, Antonius immediately returned to the city of A, making a very urgent promise of return to his wife and her parents. However, there he committed the homicide; but he was unable to escape punishment: for he was apprehended by soldiers and thrown into prison, and upon discovery of the crime, he was condemned to perpetual servitude. However, since the marriage remained only valid, the woman, having been deceived by various means into entering into marriage with such a man, requested a dispensation from the valid but unconsummated marriage. This petition was presented to the Holy Congregation. The Secretary, according to custom, forwarded the petition to the Vicarious Capitular of the diocese of N. (since the episcopal see was vacant), with the following instruction: "To the Vicarious Capitular, for information and opinion; he should report on the events preceding, concurrent with,

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and following the celebration of the marriage, and especially how long the woman lived with him after the said celebration, and how long after the commission of the crime." After receiving the report from the Vicarious Capitular, who fully confirmed the petition, the following second instruction was issued: "Write to the Vicarious Capitular, who, after due preparation of the process, should inquire into..."

[*Latin ed. p. 462*]

462. MARRIAGES. After the consummation of the marriage, and for reasons pertaining to a dispensation, observing the prescribed form of the Constitution of Benedict XIV, with the faculty also of delegating, while ensuring the necessary examination of the man in the place where he is held, he shall inform and transmit the proceedings to the Holy Congregation. After the proceedings were completed according to the Benedictine Constitution and transmitted to the Holy Congregation, certain defects were noted; namely, the testimony, known as the "seventh witness," was lacking on the part of the man, although a judicial confession was indeed received from the man in prison. There remained the testimony of midwives, which had not been properly obtained; for they were not examined separately, but together in the same judicial act and context. Therefore, the Decree stated: "Let the proceedings be completed by obtaining the testimony of the seventh witness on the part of the man, and let it be notified to the Vicario Capitularis, who shall be instructed to receive the testimonies separately, and not together as was done in the examination of the midwives." Subsequently, the Vicario Capitularis wrote to various local Ordinaries, in order to ascertain in which prison Anthony was being held. Upon discovering this, Anthony was invited to designate persons who could be examined regarding the merits of his marriage case; however, after a delay, he finally designated none. After these matters were reported to the Holy Congregation, on March 10, 1869, the Vicario Capitularis was instructed to turn to the archiepiscopal Curia of A (to which Anthony was subject), which would grant permission to Anthony to enter into marriage, and to request that, after obtaining Anthony's parish priest, it should question and examine the persons designated by him, whether by blood, friendship, or any other reason more closely connected to Anthony himself, and that the record of this matter should be sent to the Holy Congregation through the same Vicario Capitularis. After these proceedings were completed by the Archdiocesan Curia of A, and transmitted by the Vicario Capitularis N to the Sacred Congregation of the Council, a customary Rescript was issued: "In the Decrees of March 15, 1868." For it was customary for a Decree to be issued on that day, according to the practice of the Sacred Congregation, with these words: "Let the case be placed on folio (1), citing part (1)." To place the case on folio, according to the practice of the Sacred Congregation of the Council, means nothing other than to restrict the case based on all the

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documents presented, and also on the reasons presented by the parties, or those that must be presented ex officio. This restriction of the case is printed in type, and then distributed to the Cardinals for judgment.

[*Latin ed. p. 463*]

MARRIAGES. 463, and concerning the defender of marriage by virtue of office. But the matter remained unresolved, until a woman, signifying her own poverty, presented the case to the Most Holy Father in an audience with the Reverend Secretary on July 15, 1871. A rescript was then issued, stating: "The Most Holy Father has benignly granted that the case be presented economically before the Sacred Congregation, with the opinion of a theologian and a canonist, along with the observations of the defender of marriage by virtue of office." I have presented this series of events so that it may be understood what is the practice of the Sacred Congregation, which can be said to be a preparatory procedure for similar cases, before the study of the case begins, through the prior consultation and recording of the opinions of experts, or even through advocates and legal representatives, if the case is not presented economically, but is presented solely by virtue of office. With all these written documents prepared, the case is presented according to its nature to individual Eminences, ten days before they gather in the Vatican, and on the appointed day, the case is presented before their Congregation for discussion. In the meantime, before the case is presented and defined, it is necessary for witnesses, or for the parties, or for others who are interested, to have access to the same Eminences, for a more thorough understanding of the case. Therefore, with regard to the merits of the case, these are some of the things that are closely related to the matter, among many others. The woman is sworn in, examined, and questioned, and the witnesses and auditors, or consultants, are present for several days before the same Eminences gather in the Congregation to judge such cases. Such cases (which are almost all) are said to be presented "in folio," to distinguish them from petitions, which usually concern matters of grace, and some of which are often presented in the same Congregations: these were previously not printed, but were read by the Reverend Secretary in the Sacred Congregation; however, now even these are printed and treated almost like cases presented "in folio," with arguments presented on both sides in favor of granting or denying grace, and which are called "Summaria Precum" [Summaries of Prayers]: they differ from cases presented "in folio" in that they do not exhibit formulas of doubt at the bottom. Therefore, any case that must be defined with opposition from both parties, or even without opposition from the parties, but which is of greater importance, and which is presented by means of the aforementioned procedure, with doubts added at the bottom, is said to be presented "in folio." By this decree, the case, once presented "in folio," passes into the hands of the Auditor of the Reverend Secretary, who has a certain number of young

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students who prepare the case and draft the document; and by the same decree, the parties who are in contention are notified, or are understood to be notified, of the stage the case has reached, so that they may, if they wish, consult further on the case.

[*Latin ed. p. 464*]

464. CONJUGAL. Having been presented with the signs of love at the beginning of the marriage, she responded: "Since the marriage has been contracted, Anthony did not enter the house in Genoa." He gave me a kiss and departed to his city A, and I believed he would return after a few days to take me with him. However, this woman sought the dissolution of the marriage, first because she had been deceived and forced by such a cruel man to marry; second, because she had been forced by her mother; and finally, because she could not resist the carnal desires, and therefore, in order not to offend God, she sought the dissolution of the marriage. The woman's brother testified: "When Anthony arrived at the house (after the marriage had been celebrated), he showed concern for his family and announced that he would return to the city A; indeed, he departed after a short time." Another witness, when asked how long the woman remained with her husband, replied: "For a few hours, and then Anthony departed to the city A." Anthony himself, at the very early morning while he was in church and preparing to receive the woman for the marriage, informed the priest that he would have to leave immediately after the marriage. In the sworn examination, the woman was questioned under oath, and the witnesses, when questioned separately, testified that the marriage had not been consummated; and they testified either based on their own conviction alone, or also based on the conviction of others, adducing the reasons for this conviction, such as that there was not enough time, that Anthony immediately departed, and that all present were aware of this. The doctors and midwives, although not separately, but jointly, presented their judgment, testifying with one voice that the woman's virginity was preserved. This is what was established in the proceedings concerning the woman. The man, detained in prison, was examined under oath and presented a certain story, which did not agree with the judicial confession of the woman, especially concerning the events that preceded the marriage; however, his confession agreed with her in that the marriage had not been consummated. Finally, he replied: "I will never consent to the dissolution of the marriage contracted before the Church and civil authority; moreover, in addition to the marriage, there was also a vow that preceded it, by which we swore to each other a perpetual union in our lives."

[*Latin ed. p. 465*]

MATRIMONY. 465 The seventh witness, namely Anthony's parents, having been subjected to judicial examination on the part of the husband, tes-

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tified that they knew nothing of the marriage contracted by him, nor of the subsequent events; and that he had been a young man who, when seeking their counsel, lived honorably. Synopsis of the discussion. Two Consultors, both a Canonist and a Theologian, arrived at the same opinion, namely that the marriage was only valid, and that reasons existed to consult the Most Holy Father regarding the solution of this marriage. The Theologian, with great diligence, examined the words of the witnesses separately, and considered that it was not sufficiently established that the marriage had not been consummated, because in the records, he believed there was almost nothing that would clearly exclude consummation, due to the lack of place and time. Therefore, considering the account given by the husband, which was inconsistent, he considered that, with regard to this matter, it should be: postponed; and that the husband should be questioned further, and that the evidence should be supplemented. Nevertheless, he agreed with the testimony of the midwives and experts, who testified that Mary was found to be in a state of perfect virginity. Although the midwives and experts gave their testimony in a single act and in a single context, they stated that this defect did not constitute substantial defects of form. Regarding the matters which Anthony recounted in his judicial confession, which were inconsistent with the judicial confession of the woman and with other testimonies, the Canonist stated that they should not be considered reliable, since the man was a scoundrel, and therefore not to be trusted. Furthermore, with regard to the reasons for dissolving the valid marriage, among other things, the Consultors adduced the grave danger of fornication, Sánchez de matr., lib. 2, disp. 16. For although several witnesses, among whom was the Parish Priest, testified that Mary had hitherto led a blameless life, these same witnesses noted that she was now adorned with both parents, and that she earned her bread through her own labor, and that she herself confessed in court that she could not resist carnal temptations, and that she was constantly surrounded by dangers and snares, which a certain wealthy man also presented to her, with whom she perhaps used excessive familiarity. To these matters, it was also observed that there were mutual complaints between the spouses, and that hatred arose from these. For Mary, *Signati Totius*, Vol. VI, p. 70, 30.

[*Latin ed. p. 466*]

4. Concerning MARRIAGE, it was alleged that she abhorred, detested, and loathed such a man, and that it was impossible for her to unite herself to a murderer by whom she had been deceived. Conversely, although the man did not wish the marriage to be dissolved, he complained of his wife, who had not taken care to free him from prison. Moreover, since the man proved to be so criminal that he was thrown into prison and committed new crimes, he is therefore justly comparable to a man afflicted with a contagious disease, with the contagion occurring before the marriage was

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consummated. Finally, among the causes for the dispensation of a valid marriage, impotence that arises later should be considered, because, once this condition exists, the principal purpose of marriage, which is the procreation of children, can no longer be achieved. In this case, Anthony, being perpetually confined to prison, should at least be considered as impotent. These causes are described in the aforementioned work by Sánchez, who asks what are the just causes for the Pope to grant a dispensation in a valid marriage: he answered, "The second cause is a grave fear of a great scandal that may arise in the future..." Thus, Felinus, Portius, and Menochius... where Portius adds that "this future scandal is due to the fear of fornication, because the judges greatly dislike them." Therefore, it is a just cause when the man seeks to repel his wife by all means, without a reasonable hope of improvement... Wherefore, Eugenius IV granted a dispensation due to the hatred that had arisen between the spouses, as reported by Borgasius. The third cause is leprosy that afflicts one of the spouses. Because marriage is ordained for the mutual use of the bodies of the spouses for the purpose of procreation and the extinguishing of lust, and leprosy hinders this use, due to the great danger of contagion, the purpose of marriage will not be achieved. Therefore, it follows that impotence that arises after the marriage has been consummated is a just cause, by which the purpose of marriage ceases.

OBSERVATIONS OF THE DEFENDER OF THE BOND. The defender of the marriage bond was entirely focused on demonstrating that there was no impossibility of consummating the marriage, since it was not shown that the spouses had ever been alone before the man's departure: Mary, in her judicial confession, declared that she had lied when she said that the man, after the marriage ceremony, had not entered her house, but had immediately left at the threshold of the gate in Genoa; and because two witnesses testified the contrary, stating that Anthony had remained there for several hours before leaving, it follows that...

[*Latin ed. p. 467*]

MATTHAEUS, more precisely, because Anthony himself, in his judicial confession, recounted the matter differently from what the woman had stated, and what she had testified, that she did not depart on the very day of the marriage into the city A, but the day after. Regarding the causes for dissolving the marriage, he insisted that Anthony had not entered into the marriage with the intention of evading the punishment for the crime he had committed, as if he had truly sought to celebrate the marriage in the city of the bride, in order to prepare a peremptory exception based on the restriction of place and time: that he had departed from the city; and it was also noted by many that, as the man confessed, the crime was committed to him after a month of the marriage being contracted; that the woman was not deceived, since long-standing affections, as Anthony

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himself stated, preceded it, and that the woman had sufficiently learned Anthony's character. The only cause that the woman could not deny was that carnal pleasures were sufficient to dissolve any marriage, however contracted; that it was, in fact, instituted as a mutual aid in life; therefore, the wife ought to offer her assistance to her husband, and to bear with the miserable state in which Anthony might innocently find himself, etc. "Whether it is to be consulted with the Most Holy dispensation regarding a marriage that is not ratified and not consummated in this case."

RESOLUTION. The Holy Congregation of the Council, having knowledge of the cause, on January 24, 1871, judged it appropriate to respond: affirmatively. The defender of the bond, requesting a new hearing for the sake of his office, and having obtained it, presented the cause again on March 24, 1871. In this new presentation of the cause, the defender of the bond, in order to demonstrate the obstinacy and to show the examination of the witnesses, carefully explained the words of the witnesses, and argued that the testimony had been issued too easily in favor of the woman's virginity; for he asserted that the signs found in the woman, after a not brief interval of time after the marriage was contracted, were not such as to indicate any manner of integrity. However, the cause being presented again on the aforementioned day, the Holy Congregation responded: in the decisions. Again having knowledge of the cause,

[*Latin ed. p. 468*]

I. Concerning Marriages: From these inquiries, the following may be gathered: I. In the necessary process of investigating matrimonial causes within the episcopal courts, the Benedictine Constitution must be strictly observed, insofar as it pertains to the matter at hand, by the grace of God. II. In such causes, it is customary to always require, in addition to the appointment of a defensor vinculi matrimonialis [defender of the marriage bond], testimony from seven witnesses, both from the wife's side and from the husband's side. For spouses often disclose their matrimonial affairs, at a time when suspicion is not present, to relatives, friends, or neighbors, or much may be discovered through them, either through their own knowledge or through hearsay, which would be useless to seek elsewhere. III. In resolving a marriage that has been validly contracted, it must be clearly demonstrated that the marriage remains valid and that sufficient grounds for a dispensation exist. IV. In certain cases, a multitude of testimonies, joined together and consonant in substance, regarding the husband's departure on the same day after the marriage contract, when there was no opportunity to consummate the marriage, constitute a sufficiently strong argument for a marriage that was not consummated; this is corroborated by medical evidence and the judgment of experts. V. Nor were there lacking grounds for a dispensation, among which this ultimate one certainly was not, namely, that, through the fault of the husband, a virtuous girl had been

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rendered neither married nor free. (1) (1) Compare the case of marriage which I presented in Volume I, pages ii 4 and following.

[*Latin ed. p. 469*]

469 CONCERNING THE RIGHT OF BURIAL. March 24, 1871. Summary of the case. In the town of N., on July 29, 1869, a certain woman named Rosa died. The day after her death, before her body was carried away, a question arose as to where the deceased woman should be buried. Indeed, a certain Giles testified that, two hours before the body was carried away, he stood before the Canons of the parochial and collegiate church, accompanied by three witnesses, to declare the will of the deceased woman, who wished to be carried to the church of N. of the Order of Friars Minor of the Observance; and that he was arrogantly rejected, so that the Canons would neither read nor hear those who were making this declaration. Consequently, without any delay, the body was carried away and buried in that parochial church. When the guardian of the Franciscan monastery did not approve of this, he fled to the episcopal curia, which, at first, seemed intent on defending the rights of the Regulars. However, after the matter was prolonged, he presented a suppliant petition to the Sacred Congregation of the Council, requesting that the body of the deceased Rosa be exhumed from the parochial church and removed to the Regular church, at the expense of the Canons, with a prior restitution of the funeral expenses. After these requests were received, the Ordinary was consulted, as is customary, for information and opinion, after having heard the chapter of that collegiate church and after having received a report from the diocesan synod concerning these matters. The Ordinary, having initially changed his opinion, adhered to the exposition made by the chapter, saying: "The exposition of both the law and the facts, presented by the chapter in this case, does not seem to me to be to be disregarded. And the most important reason for this is that the deposition of the two witnesses appears to be too late and contrived; and therefore, it is called into question for the reasons given by the chapter, or rather, it should be explained in connection with the pagan tomb of a certain Restitutus, in which, after his death, he believed he could enjoy [the benefits], as the parents initially maintained that he should be buried there. For if it were truly the case that..."

[*Latin ed. p. 470*]

470 CONCERNING THE RIGHT OF BURIAL: The formal election, certainly, did not escape the notice of the parents, and they immediately brought the matter before the Chapter, rather than convening in the vicinity. From the beginning, I testified to the truth of the aforementioned deposition, and therefore, I wrote to the Custodian of the said Convent, but after hearing the Chapter, I see that the matter is different. I will add that admitting these depositions indiscriminately is contrary to

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the sanitary laws, which were enacted to prevent and abhor all such depositions in cemeteries! Furthermore, the Synodal decree states: "Lest fraud be committed, the choice of burial shall consist either in a written declaration of the one choosing, or in the testimony of two witnesses, or in the testimony of the Confessor himself, provided that it is not for his own church." It is forbidden under a Papal interdict for both Regular and Secular priests to induce anyone to vow, swear, or promise that they will choose a burial place or will not change the chosen burial place in their churches.

They furthermore asserted that the cemetery had been, by the authority of the Church, a cemetery of the Canons, both of the collegiate chapter and of the parish church, and that this had been publicly announced.

DISCUSSION OF THE CANONS.

The Canons stated that Rosa had died suddenly, although she had been afflicted by a long illness; therefore, she could not have received the sacraments of the last rites. They presented witnesses who testified that on February 4, 1870, after the sudden death of Rosa, her parents went to the Canon Parochial and other Canons, praying that they would allow the body of the deceased woman to be buried in a certain chapel and other places of the Franciscan church, promising to give certain funeral offerings to the Chapter; whereas the deceased woman, while she was alive, had not expressed her will as to where she wished to be buried, whether in the parish church, the common cemetery, or rather, in the Franciscan church. Having presented these testimonies, the Canons stated that they had discovered contrary testimonies, which had been brought forth at the beginning of the dispute, which affirmed that Rosa had chosen her burial place. But, even supposing that Rosa had chosen her burial place, they contended that this choice was illegitimate; firstly, because in the year 1859, the Provincial of the Franciscan Order at that time forbade it.

[*Latin ed. p. 471*]

SECTION ON BURIAL RITES 471, to prevent the burial of corpses within that church until the burial grounds had been purified; from this prohibition, the Canons argued that the Brothers had renounced the right of burial. Moreover, since the collegiate church had been established as a common cemetery, this arrangement would have meant that the right of burial in other churches would have ceased. RIGHTS OF THE REGULAR CANONS. The Regular Canons argued that, according to the law, anyone not otherwise restricted by law, could choose their burial in any church that possessed the right of burial. Among such churches were those of the Brothers Minor, to whom this right was granted by a special privilege, as stated in chapters "Ubicumque," "Nos, de sepulturis," and

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"Extra vagantes." Similarly, a diocesan synod had decreed: "Everyone is free to choose a burial place in a church that possesses the right of burial," and this was accompanied by a particular and constant custom. The Regular Canons maintained that no formal legal procedure was required to demonstrate the will of the person choosing the burial place, but that simple proof would suffice, either through a document written by their own hand, or through the testimony of a confessor, or through the deposition of two witnesses; this is consistent with the opinion of Ferraris in the "Bibliotheca canonica" under the word "Sepultura," and with other authorities. Furthermore, they contended that it was a matter of fact that Rosa had chosen her burial place in the church of the Brothers Minor before her death. They presented several witnesses, the most important of whom were the deceased woman's husband and son, who testified that Rosa, during her long illness, had repeatedly and clearly expressed her will to be buried in the church of the Brothers Minor; and that, if necessary, she would even sell some property to ensure that her will was fulfilled; this was a matter of public knowledge in that town, and therefore could not be disputed. In addition, they presented two other witnesses who declared that they had not sought permission from the Canons to bury the deceased woman in the church of the Brothers Minor, but had simply announced her death and made known the deceased woman's will. Given these circumstances, it was not only necessary to exhume the corpse and transport it at the expense of the Canons; but also, the funeral expenses that had been incurred by the Canons were to be returned to the Brothers Minor, as stated in chapter "Cum liberum, de Sepulturis," where Alexander III is quoted as having written: "Ad audientiam no-

[*Latin ed. p. 472*]

472 The right of burial arises from the contention between the Abbot and the Brothers of Saint Martin of Laudun, because when a certain priest was carrying the body of a woman (as she had stipulated in her will) to bury it in that church, the Brothers of Saint Vincent of Laudun did not hesitate to violently seize the body and bury it in their own church. We command that, if you find this to be the case, you compel the aforementioned Brothers to restore to the aforementioned Brothers, with integrity, the bones of the aforementioned woman and the benefits which they are known to have received as a result of the burial, and that they presume not to do such things in the future. Many resolutions of the Holy Congregation are in agreement with this legal principle, which have decreed that, in such circumstances, the body must be restored. Furthermore, in the diocese in question, the decree of the diocesan synod states: "When a body has been buried outside its own church or designated tomb, if it is requested, and with our approval, it must be exhumed, so that it may be restored to its rightful place. Those who have committed this injury shall be deprived of any profit received

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or to be received from the funeral." The Provincial's order was fulfilled, who had previously ordered that a place for burials be established; and the Regulars noted that many bodies had been buried there since that time. The civil decree, which declared the collegiate church to be a common cemetery, does not stand in the way, since nevertheless, faithful who had chosen to be buried in the church of the Brothers Minor, were always buried in that church. Therefore, since it is manifest that Rosa had chosen to be buried in the church of the Brothers Minor, and since the church of the Brothers Minor has the right to bury, the will of the deceased having been violated by the Canons, it is clear that the body must be exhumed and restored, and that the funeral benefits received by the Chapter must be returned. With these considerations, the following questions are to be resolved: 1. "To whom does the right of burial from funerals belong in this case?" And, "To what extent do the Brothers Minor have a claim to observe this right?"

[*Latin ed. p. 473*]

LAWS CONCERNING BURIAL 4-73 II. "Whether a place exists for the exhumation and restoration of the body and for the payment of [funeral] expenses in this case." RESOLUTION. The Holy Congregation of the Council decided on March 24, 1871, to respond as follows. Regarding I: Affirmative, with the favorable opinion of the Brothers of the Observance. Regarding II: Affirmative, deducting the fourth [portion] for funeral expenses; but concerning the exhumation of the body, and furthermore: FROM WHICH THE FOLLOWING ARE GATHERED: I. It is most fully established that it is within the power of the faithful to choose a burial place in sacred locations, in which the right of burial is exercised. II. Such a choice can be proven without any formal legal requirement, by two witnesses; or even by one Confessor, provided that he does not testify for his own benefit. III. Those who presume to violate the chosen burial place, by burying the body elsewhere, must be condemned to pay for it at their own expense, with due solemnity, for the restoration of the body to the chosen burial place, and for all [funeral] expenses. IV. In this matter, it does not appear that there was any presumption of this violation: either because the will of the deceased woman was not initially sufficiently made known to the Canons, or because the presumption of a public cemetery was in some way concealed. V. Therefore, it was judged to be just that the [funeral] expenses should be given to the Church of the Brothers Minor, deducting the fourth [portion] for the parish church (1). (1) The decision of the Holy Congregation concerning the exhumation of the body remained secret, perhaps due to political circumstances: since that town had recently been invaded by the Piedmontese Government, prudence dictated that it was not advisable to order the exhumation of the body, in order to fulfill the will of the deceased. Indeed, the exhumation of the body could have been ordered, even if the presumption of burial on the part of the Canons was lacking: for by that

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exhumation, the will of the deceased woman was put into effect, notwithstanding the law of the common cemetery, which in that town had become a dead letter. It is well known in law how much weight must be given to custom or usage in matters concerning funerals.

[*Latin ed. p. 474*]

474 CONCERNING THE ALIENATION AND RESTORATION OF MISSES. On February 8, 1871, the "Summaria precum" (Summary of Prayers) stated that a pious woman, in her will of the year 1749, established an endowment for Masses (according to the records; the specific wording of the will is missing), using approximately these words: "She bequeathed, for a perpetual chaplaincy, through the generosity of Bernard N. and his sons, grandsons, and descendants ad infinitum, the sum of L [currency unit], from whose fruits Masses should be celebrated for the sake of her soul, etc., with a designated amount for each Mass; and this chaplaincy should be established immediately after her death. She also stipulated that if, among the descendants of Bernard, there was no priest or cleric, then the eldest son or a male descendant should bear the burden of these Masses with a determined offering, or should agree with a priest regarding the celebration of Masses with a suitable offering; and whatever remained should be used for her own benefit." Although, from such an arrangement, it would seem that one eldest son should benefit from this pious endowment, nevertheless, four brothers received the fruits of the sum of L, and the burden of the Masses was divided proportionally among them. When, however, three of these brothers were greatly burdened by poverty, and one was unjustly imprisoned, it happened that the obligations of the Masses were neglected. After the Italian usurper granted freedom to the lands under patronage, one of the brothers presented a petition to the Most Holy Father, requesting permission to alienate the land of the pious endowment, in order to alleviate the great poverty of his brothers; at the same time, he declared that he was prepared to issue a bond before his Ordinary, guaranteeing the faithful fulfillment of the Masses, which would respect his due share, and that this would also be enforced from his own heirs. For the three other shares, which, due to the poverty of the other three brothers, were being neglected, he petitioned for a suitable reduction, obligating himself and his heirs to fulfill these Masses in a fitting manner.

[*Latin ed. p. 475*]

ALIENATIONIS ET REDUCTIONIS MISSARUM. 475 Rogato de more Ordinario pro informatione et voto, atque ut referret de annuo redditu et oneribus legati, nec non de legitima petitae dispensationis causa; constitit vera esse, quae exposita fuerant, atque fundum L, omnibus subtractis oneribus, in praesentia reddere ducata annua 51. Suam

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autem sententiam Ordinarius significavit Oratori favorabilem. Animadversiones ex officio factae Ex expositis precibus, ut patet, duplex gratia ab oratore petebatur: idest tum alienandi fundum pii legati, tum habendi Missas numero reductas. E A, quae animadversa sunt pro neganda exauditione precum. Quum ad erectionem capellaniae laicalis non interveniat formalis Episcopi auctoritas, disputatum esse a doctoribus, an eiusmodi capellaniae bona alienari possint absque causis et solemnitatibus, quae in alienatione bonorum Ecclesiae requiruntur. Saniori parti visum esse requiri Apostolicum Beneplacitum, propterea quod hisce bonis adhaeret causa pia: eaque proinde inter bona ecclesiastica fere recensita esse, atque eorum alienationem prohibitam sine consuetis causis canonicis, idest sine necessitate vel evidenti ecclesiae utilitate et sine Apostolico Beneplacito iuxta Extravagantem Ambitiosae: quibus et altera extraordinaria causa potest accedere, quae est pietas in christianam plebem, ut tempore pestis vel famis etc. Hisce autem positis, cum in themate neque necessitas vendendi fundum appareret neque evidens ecclesiae utilitas, concludebatur non videri locum esse alienationi fundi. Neque causam pietatis locum habere; quum non ageretur de christiana plebe quae versetur in urgentibus rerum adiunctis; sed de patronis egenis, quibus alia ratione in iure consultum sit, idest ex redditibus, non fundorum alienatione ceu passim tradunt doctores. Eo magis in themate, propterea quod fundi venditio quadripartita vix aliquod temporaneum levamen egenis patronis tribueret. Haec, quae de alienatione sunt animadversa, militare quoque si notatum pro reductione Missarum; ex ea praesertim ratione, quod defunctorum voluntates omnino sint servandae, neque S. Sedem i

[*Latin ed. p. 476*]

476. CONCERNING THE ALIENATION AND REDUCTION OF MASSES. Without a just and reasonable cause, it is not permissible to diminish [the obligations] of these [chapels], as stated in the Clementine Decrees, *Quia contingit* 2 of Religious Matters, Session 1 of the Council of Trent, Canon 6 concerning Requisitions. Moreover, it was more readily concluded that, rather than a perpetual reduction, a temporary suspension of obligations should be granted, as was done in Messano, January 1, 1777; in Nuceria Paganorum, September 5, 1778, and elsewhere.

THOSE THINGS WHICH ARE CENSURED REGARDING THE DISPOSAL OF CHAPEL ENDOWMENTS. It is considered that it is not permissible for the assets of a chapel, even those that are canonically held by a lay person, to be sold or otherwise alienated, unless it is done with the approval of the Apostolic See, or even without the permission of the Bishop; see Cardinal Petrucci in *Const. Ambitiosae*, section 3, number 26, a judgment which does not appear to have been entirely rejected by the Sacred Congregation and the Sacred Rota, as in Forosempronio, on the 26th

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of the month; in Fossano, December 18, 1847; in Rome, Lodi, decision 140, on July 4, 1692, section 2, before Caprara; and in Rome, or Siena, regarding Nullity of Contracts, June 3, 1859, number 12, before Serafini. Although this opinion, given in March 1831 and by the Sacred Rota, may seem to suggest an unrestricted alienation of assets, it nevertheless demonstrates that it is much easier to grant permission for such alienation, and that it is not necessary to inquire excessively into the reasons for the alienation, provided that it is done in good faith, especially when dealing with assets in a true ecclesiastical sense. Moreover, in the case where a brother, by selling a piece of land, would assist needy patrons and ensure the proper fulfillment of the obligations of Masses, for which the poorest patrons are unable to provide, it is even more readily permissible.

In light of these considerations and the matters presented, a response was issued by the Sacred Congregation on February 28, 1871, which reads as follows:

"Regarding the alienation of the land, it is negative; but, considering the particular circumstances, after the celebration of ten Masses, and with the injunction of the Ordinary, both to the Oratory and to its pious brethren, through prayers offered as a form of suffrage, for the grace of absolution and remission of past omissions of Masses; and also for the grace of a reduction to twenty-four annual Masses for a period of five years, to be demonstrated annually, etc. (1), let this be done with the consent of the Most Holy [Father]."

(1) Such a clause, "to be demonstrated annually, etc.," is understood to mean that the patrons are to report annually to the Ordinary regarding the execution of these Masses: that is, the patrons are to render an account to the Ordinary each year, or to demonstrate to the Ordinary the fulfillment of the present Decree.

[*Latin ed. p. 477*]

ALIENATION AND REDEMPTION OF ECCLESIASTICAL ENDOWMENTS. 477 From which the following are gathered: I. The goods of lay chaplaincies cannot be called ecclesiastical, in that very sense in which the goods of benefices, bishoprics, churches, monasteries, etc., and those which are joined to and incorporated with them, are called ecclesiastical. II. In lay chaplaincies, the formal authority of the Bishop or the Holy See does not intervene in their establishment, for example, through these or similar words: "By our authority, we establish, constitute this chaplaincy, and perpetually assign to it these and those goods," by which the goods would become ecclesiastical by the decree of authority; although the episcopal authority often intervenes, as if ratifying what a pious founder has established. III. Because of the lack of a formal episcopal decree, it cannot be deduced that the same goods can be alienated at will. IV. For there is involved a universal canon: the wills of pious founders or the dying are to

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be sacredly observed, as if they were supreme laws; from which it follows that: the Bishop is born an executor of all pious intentions (1). V. Therefore, the goods are inalienable, not because they are ecclesiastical in the aforementioned sense, but because the founder made them inalienable through a pious and perpetual cause, with which he joined his determined goods. VI. Therefore, although such goods are not subject to the extravagances, ambitious decrees (2), they nevertheless cannot be alienated without the Apostolic approval, on account of the resisting will of the pious founder. (1) See what I have written in Vol. II, 369 and following. (2) See Barbosa on the Power of the Bishop, paragraph 3, alleg. 15, numbers 3 i and 32; Cardinal De Luca on Alienation, discourse 1, number 12; discourse 60, number 3, on Jurisdiction, with many authorities cited by them. These authors distinguish between pious institutions and ecclesiastical institutions: they say that only those institutions are pious which are destined for a pious cause, such as pious confraternities, hospitals, colleges, etc.; in which, if the formal erection by the Bishop, of which I spoke above, does not intervene, their goods are not considered ecclesiastical; therefore, they are not subject to the extravagances of Paul II and the Ambitious Decree, concerning ecclesiastical alienation. Since the reason why these goods are not subject to alienation is the lack of ecclesiastical erection, all the more so must the same be said of lay chaplaincies, which exclude said erection by the will of the founder.

[*Latin ed. p. 478*]

478 FROM THE SUPPLICATIONS OF THE SS. CONGREGATION OF RITES. DIJON. Concerning the Beatification and Canonization of the Servant of God, Sister Margaret of the Most Holy Sacrament, a professed nun of the Order of Discalced Carmelites. "The following writings, collected with diligence in the cause of the Beatification and Canonization of the aforementioned Servant of God, Sister Margaret of the Most Holy Sacrament, have been transcribed from her own hand; these, together with a procession prepared on this matter, were transmitted by the Most Reverend present Bishop of Dijon to Rome, to the Sacred Congregation of Rites. The list of these writings is as follows."

I. The writings themselves are in five bundles, and their conformity, either with the autographs or with legally valid copies, is established. These bundles contain more than one hundred and eighty pages. On the outer part of the first bundle are these words: "Recueil des écrits de la sœur Marguerite." And after n. 1, these other words: "L'ordre des devoirs et obligations des Domestiques etc." That is to say, the words at the beginning and end of each bundle indicate their contents. Finally, the following decree follows, with these words: "When the Most Eminent and Most Reverend Cardinal John Baptist Pitra, Promoter of this Cause, reported at the Ordinary Congregations of the Sacred Rites, held today in the Vatican, that the

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theologians appointed by him had found nothing in the aforementioned writings that could impede the further progress of the cause, the Eminent and Most Reverend Fathers presiding over the Sacred Rites, having heard the voice of the Reverend Father Peter Minetti, Promoter of the Holy Office, judged it necessary to write: 'Nothing stands in the way of proceeding to further steps; reserving, however, the right of the Promoter of the Holy Office to object, if and to the extent that it is legally permissible.' September 2, 1871."

"Afterwards, a faithful report of the above was made to His Holiness, Pope Pius IX, and His Holiness, having considered it, ratified and confirmed the Decree of the Sacred Congregation in all respects. September 7, of the same month and year."

C. Ep. Ostien. et Velitern. CARDINAL PATRIZI, S.R.C. Prefect.

In place of the Seal,

D. BARTOLINI, S.R.C. Secretary.

[*Latin ed. p. 479*]

"After Most Reverend Monsignor Joseph Hippolytus Guibert, Archbishop of Tours, had obtained from the Most Holy Father, Pope Pius IX, the confirmation of the public ecclesiastical cult rendered to the venerable Blessed Joan Mary of Maillé, he immediately, with repeated humble prayers, requested that the clergy of his Archdiocese be permitted to perform the Office with Mass, not of Virgins, in her honor, on the lesser feast day of March 28th, with the addition of the proper prayers and readings of the second nocturn, each of which he had submitted for the approval of the Holy Congregation of Rites. When, therefore, Most Reverend and Most Illustrious Cardinal Aloysius Bilio, the promoter of this cause, presented these new petitions at the ordinary meetings of the Holy Congregation of Rites, held at the Vatican on the date indicated, the Eminent and Illustrious Fathers entrusted with the safeguarding of the sacred rites, after a careful examination of all matters, and after hearing the Reverend Father Peter Minetti, the promoter of the holy faith, judged it fitting to write: 'For the sake of expediency, and to the Eminent Promoter, together with the Promoter of the Faith.' After the required revision was completed by the aforementioned Cardinal Promoter and Promoter of the Faith, the Holy Congregation approved the proposed prayers and readings, as corrected and arranged above, and granted that they may be read and recited by the secular and regular clergy of Tours, who use the diocesan calendar, in the Office and Mass, not of Virgins, on the feast day of Blessed Joan Mary of Maillé, celebrated on March 28th, according to the lesser rite."

On September 2, 1871, Cardinal Patrizi, Bishop of Ostia and Velletri, Prefect of the Sacred Congregation, signed: "D. Bartolini, Secretary of the Holy

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See."

(1) This decree is detailed on page 365.

[*Latin ed. p. 480*]

480 TOURS. "His Holiness Pope Pius IX, upon the recommendation of the undersigned Most Reverend Secretary of the Sacred Congregation, having received fervent petitions from the Most Reverend Joseph Hippolyte Guibert, Archbishop of Tours, has graciously granted that the following eulogy, in honor of Blessed Joan Mary of Malliac, revised and corrected by the Most Eminent and Reverend Cardinal Aloysius Billio and the Reverend Father Peter Minetti, Promoter of the Faith, may be included in the Appendix to the Roman Martyrology, for the use of the Archdiocese of Tours, namely: ON THE FIFTH DAY BEFORE THE KALENDS OF APRIL, at Tours, Blessed Joan Mary of Malliac, born of a noble family, who, after the death of her husband, with whom, as is said, she had remained a virgin, entered the Third Order of Saint Francis, until, her life flourishing with all virtues and miracles, she departed this life to God at the age of eighty-two years (i)." Notwithstanding any objections whatsoever. Dated September 14, 1871. "C. Ep. Ostien. et Velitern. Cardinal PATRIZI, Secretary of the Sacred Congregation. D. Bartolini, Secretary." (1) Through distinguished circular letters to his clergy and people, the Archbishop of Tours announced the discovery of the tomb of Saint Martin, and also solemnly promulgated these decrees of the Sacred Congregation, with the indicated readings and prayers, concerning Blessed Joan Mary of Maillé, and ordered a solemn feast to be celebrated in the cathedral church for the purpose of giving thanks.

[*Latin ed. p. 481*]

4. IF the Apostolic Letters, by which our Most Holy Father praises, establishes, and encourages faithful societies, engaged in the battles of the Lord, in such great public calamity, so that all may be more effectively bound together by the newly forged bonds of charity. PIUS PP. IX. For the future memory of these things. "We render the greatest and unceasing thanks to God, and to the Father of our Lord Jesus Christ, the Father of mercies, and God of all consolation, who, in so great a tribulation of ours, and so much bitterness, alleviates our sorrow, and raises up in his children the spirit of piety and prayer, the spirit of charity and fortitude, that through them, remedies may be offered against all these evils, arising from the fierce war of the powers of darkness against the Catholic religion. To God, we give thanks for that wonderful zeal and ardor of Christians, which everywhere on earth, these men exhibit with unanimous will, giving brilliant examples of faith and piety, and with all effort, works, and industry, they oppose themselves like a wall to the torrent of iniquity, and spare nothing, so that the integrity of the faith may be preserved, and the faithful people may

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grow in the knowledge of God, and may flourish in every good work, and, fortified by the more abundant aids of heavenly grace, may more steadfastly abhor the perverse doctrines of the enemies of the Church. We also give thanks to God for those useful Societies which have been established, which, like well-trained armies, strive in the battles of the Lord, in all the needs of the Church, to repel and overthrow the efforts of wicked men, to expose the hidden lairs of the impious, and to vanquish the devil himself within them, to whom these miserable men serve. All these things are worthy of praise and are most fitting for these calamitous times, as has been said many times in Ut. tom. VI. fase. LXXI. 31."

[*Latin ed. p. 482*]

482 Our Apostolic Letters we have most earnestly commended, and we have augmented those same societies with spiritual privileges and indulgences, and we have spurred them on to greater efforts daily for the cause of the Church and the eternal salvation of souls, in this most miserable state of all things and in the darkness of errors. And this we have especially done for those societies which are established in this our beloved City, and which most clearly demonstrate the piety of the Roman people, and their steadfastness in faith and devotion to this Apostolic See. Indeed, before this beloved City, the Seat of the Blessed Peter and the Head of the entire Catholic world, was reduced to this most miserable and unhappy condition, through sacrilegious acts, arms, and nefarious machinations, there had already been established a society for removing the pernicious reading of harmful books and periodicals, and then the Roman cohort of Catholic Youth, which is called the Circle of St. Peter. But after the city was captured, and we ourselves were subjected to hostile domination, and with the flood of impiety and wickedness, the piety of the Roman citizens began to shine forth more widely. For not only have the aforementioned groups been strengthened with new vigor, but other, far larger societies have been established, either for promoting Catholic affairs or for encouraging good works; and not less worthy are the pious union of Catholic women, and the society of those who have fought in defense of the Holy Apostolic See, and the sodality of continuous prayers, and the groups of artists and workers for mutual charity, and the Society for promoting the diffusion of good books, and the sodality for the pious care of the poor, all of whom work with the greatest zeal for the good of the Church, with holy emulation, and have already produced abundant fruits. But we cannot refrain from congratulating these most excellent societies with the utmost joy, because these have willingly and readily entered into an agreement, with the counsel of the society dedicated to promoting any and all good works, by which, preserving the unity of spirit in the bond of peace and charity, the societies themselves, each adhering faithfully to its own particular purpose, will conspire with counsel and strength to defend the faith, to assert the rights

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of the Church, and to vindicate its liberty. Thus, being more closely united by this bond, they will be like the first believers, "whose hearts were one, and their minds were one," against the terrible attacks of their adversaries, like a well-ordered army.

[*Latin ed. p. 483*]

APOSTOLIC LETTERS. 483. Let them persevere in their efforts. Furthermore, because we are confident that, through the union of forces among the faithful and the entire Church, there will be great benefit to us in these troubled times, we encourage all other societies, especially those established throughout Italy, whose primary purpose is, in these difficult times, to offer constant prayers to God, to provide a proper and Christian upbringing for the young, and to resist the wickedness of this corrupt age through various good works of every kind, to strive forward with concordant spirits and united forces, and to join themselves in a single bond in the struggle for the good, even with the societies of Rome. Finally, through these Letters, we earnestly exhort and implore all pious societies of this kind, both those that will enter into this bond and those that will join them, and all the faithful, to look to this rock of the Holy See, the unique beacon of salvation, and to obey its infallible teaching, to show reverence and obedience to its sacred authorities, and to seek only those things that are of Jesus Christ, striving for this one thing with the utmost zeal and diligence, so that our faith, which has conquered the world, may be preserved completely and inviolably, and so that, with the shadows of error dispelled and the audacity of those wicked men who wage war against the religion of Christ overthrown, the Catholic Church may triumph. We are certain and know that such societies, bound together by the bonds of charity and piety, will accomplish this cumulatively, and we are firmly confident that God, looking upon the desires, tears, fasts, alms, and prayers of His children, will convert His wrath into mercy, and that the ungodly will be compelled to confess that the faithful have God as their protector, and for that very reason, are inviolable. "Given at Rome, near St. Peter, under the Fisherman's ring, on the 23rd day of February, 1872, in the twenty-sixth year of our pontificate." Cardinal PA R ACCIAISI CLARELLI.

[*Latin ed. p. 484*]

FROM THE HOLY CONGREGATION, CONCILIUM TRIDENTINI, A PARTICULAR DECREE ISSUED ON THE MATTER OF GRANTING LETTERS, dated June 22, 1871. A summary of the facts. In the archiepiscopal city of N., there exists a collegiate church dedicated to Saint Michael, in which formerly there was a Priory and a Convent of Regular Canons. Pope Leo X elevated it to the status of a collegiate church through a Bull dated June 28, 1518, and adorned it with a Dean, nine Canons, and an equal number of Chaplains. Furthermore, the same Pontiff, through an express

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privilege, exempted it from the jurisdiction of the Archbishop, and placed it directly under the Apostolic See, with these words: "The church and all its goods, as well as the Dean, Canons, Chaplains, Clergy, and all persons whatsoever belonging to the same church, whether in benefices, spiritual matters... or in any other matters... shall be exempt from the jurisdiction of the local Ordinary and from all others exercising either ordinary or delegated, or mixed authority... and the Dean shall be subject only to the Apostolic See, while the Canons and Chaplains and Clergy... shall be subject only to the Dean and to the Apostolic See, in all respects." On September 29, 1667, a certain Congregation was specially appointed by Clement IX, which, after examining the aforementioned documents, and after discussing several questions, declared that the Dean in the aforementioned church was the Ordinary, so that he held ordinary jurisdiction in the same church and over its goods, as well as over the Canons, Clergy, and the persons and families of the same. At the beginning of this century, the French Government suppressed it; but, with the restoration of peace, Pius VII restored it to its former status, with all its privileges. In the same city of N., the young man Ignatius attended the seminary of that city.

[*Latin ed. p. 485*]

CONCERNING THE GRANTING OF LETTERS. The collegiate church, exempt from ordinary jurisdiction, was being educated towards the clerical state; and he received the first tonsure and the minor orders from the Archbishop. But while completing his scholastic year in 1867, without any permission from the Archbishop, he permanently departed from that city and Archdiocese. Afterwards, the Archbishop learned that Ignatius had gone to the residence which his father had established since 1861 in another diocese L, and that in the aforementioned year 1867, he had been initiated into the order of Subdiaconate by the Episcopal Administrator of that diocese L, and subsequently into the Diaconate and Priesthood. Indeed, the same Administrator (who, however, was empowered to ordain a certain number of clerics without a specific title) ordained Ignatius without a title, or benefice, or patrimony. Upon learning this, the Archbishop inquired of the ecclesiastical court L, to which Ignatius had gone with his father, as to the legal basis upon which Ignatius could have been ordained there, entirely without the knowledge of the Archbishopric of N, and received certain letters, seemingly of a transmittal or excardination nature, which Ignatius had obtained from the Dean of the collegiate church, by which the cleric Ignatius was permitted to go to that diocese where his parents resided. This letter was of the following tenor: "From" your letter of the 13th of this month of June, which was sent to us, we understand that you are being moved by several reasons to abandon this canonical seminary, and furthermore, to relinquish the benefice which you held in this collegiate church of St. Michael N. We, therefore, recognizing the reasons which

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you have indicated to be valid and just, cannot refuse to permit you to go from this seminary to that diocese where your parents reside. We also declare that we accept the renunciation which you have presented, of the benefice which you held in our collegiate church. Furthermore, we testify that for seven years, during which you were numbered among the students of our seminary, you diligently applied yourself to the studies of Grammar, Rhetoric, Philosophy, and Theology, and that you were adorned with honesty of life and manners, and that you received all the tonsures and minor orders in this diocese N, legitimately. In witness whereof, etc." Furthermore, a certain private declaration from the Parish Priest was presented.

[*Latin ed. p. 486*]

4#6 CONCERNING Ignatius, who was previously subject to it, in which it was stated that publications had been made during the solemnities of the Masses, by which it was announced that the acolyte Ignatius, having been incardinated into the clergy of the diocese of L, would receive the Subdiaconate, and that no opposition had been presented. The Archbishop N, who reported these matters to the Holy Congregation of the Council, did not fail to note that the Dean of the collegiate church, who is a Prelate exempt of the second or third kind, had never taken the opportunity to grant dismissal letters for his clerics to be ordained, but had, however, for some time, granted dismissal letters to certain of his ecclesiastical men, an example of which the Archbishop presented, which is of the following tenor: "The Dean N. and Ordinary of the distinguished collegiate church of St. Michael..." Protonotary of the Apostolic Holy See and immediately subject to the same See. "To our beloved N. in Christ... Canon of the distinguished collegiate church of St. Michael... greetings in the Lord eternal. Since, for just reasons, as you have explained to us, you desire to go and reside outside this diocese of N, and therefore you have requested our permission, we, graciously acquiescing in your wishes in the Lord, grant and bestow upon you a license and the faculty for one month. Furthermore, we make known and testify to all and each who read these our letters, that you are a secular Priest, that you have publicly celebrated and can celebrate the sacred Sacrifice of the Mass, and that you have never been noted for any crime, and that no ecclesiastical censure, or other canonical impediment, has been brought to the attention of our Deanery. In witness whereof, we have affixed our seal to these presents and subscribed them with our own hand. N. N., from the Deanery, on the day... " Before the Archbishop raised the controversy, he requested an opinion from his Pro-Synodal Congregation, which transmitted a learned opinion to the Holy Congregation of the Council, of which I shall refer to some things later. With these and other considerations, the Archbishop, not denying that the Dean had the right to allow ecclesiastical men dependent on him to leave the collegiate church and the divine offices, asked the Holy Congregation

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of the Council: Can a Prelate without a territory...

[*Latin ed. p. 487*]

CONCERNING THE ISSUANCE OF DOCUMENTS. 487. Is it permissible to grant separation documents for individuals destined for other dioceses, under the indicated form, without the consent of the diocesan Ordinary? The Archbishop's documents concerning this matter were sent to the Administrator of the diocese of N, and to the Dean of the church of St. Michael, so that, if they had anything to report regarding the question raised by the Archbishop, they might present it appropriately and express their opinion. The current Administrator of the diocese of L immediately replied, stating that the matter had been initiated not by him, but by his predecessor, who had since passed away; therefore, it concerned a matter that did not pertain to him personally. He also stated that, through a rescript, he had ordered both the bishop ordaining and the ordained, who, having been suppressed, had sought refuge with him, to be absolved from any censures or irregularities they may have incurred. The Dean of St. Michael wrote extensively in his defense. Above all, he complained that, after several years, the Archbishop had raised the question without having previously warned him; he stated that Ignatius' father had turned to the Archiepiscopal Curia at the time when the matter of his son's ordination was being considered, and had received the response that it was necessary for the Ordinary of St. Michael to provide the necessary documents; and that he, therefore, had provided those documents, but in such a way that it would only be clear that Ignatius had not been expelled from the seminary, but had left for just reasons, and that he had renounced the benefice he held in the collegiate church, having completed his studies in the seminary of St. Michael, and having received the minor orders. Furthermore, he stated that, through what he had included in his letter, he intended to demonstrate that Ignatius no longer possessed any property in the diocese of N; that he had acquired a permanent and true domicile elsewhere; and that this was to be understood not because of the validity of the documents issued by him, but because of the disposition of the law itself; that the documents issued by him could neither be called "missionary documents," since there was no mention of the power to ordain in them, nor "remissionary documents," since they only indicated that Ignatius had been released from the jurisdiction of his bishop. Finally, he confined the entire present question to this formula of doubt: "Is it the case that the Dean and Chapter of the collegiate church of St. Michael, which, although it does not have a separate territory, is exempt from the jurisdiction of the Archbishop of N?"

[*Latin ed. p. 488*]

488 CONCERNING LAW: It is permissible, without consulting the Archbishop, to grant ecclesiastical men who are subordinate to him, and who do

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not possess dispensations, the care of souls for a certain time, not in order to receive ordination, but for just and other reasons.

A SYNOPTIC DISCUSSION: DEFENSE OF THE DEAN. Among the reasons which the Dean presented in his defense, the following are enumerated. He observed that the Collegiate Church of Saint Michael, although it does not have a separate territory and is located within the diocese of N, is nevertheless not part of the diocese of N, and therefore, the matters and persons pertaining to the Collegiate Church do not depend on the Archbishop of N: the words of the exemption are clear, as I indicated above, by which Pope Leo X exempted the Collegiate Church from the jurisdiction of the Archbishop and subjected it directly to the Apostolic See, and furthermore, the Congregation appointed by Clement IX subsequently declared the same. It is of no benefit to object that the exemption in question is limited to the location of the Collegiate Church of Saint Michael; on the contrary, it is established that the exemption follows matters and persons and accompanies them wherever they may be; so decided the Sacred Roman Rota, decision 14, number 12, as reported by Scarfantonio in his work, *Animadversiones ad Luc. Ceccoppi, in additionibus*. Moreover, it is the case that the Dean himself, when, availing himself of the privilege of this exemption, he issued letters, in the form previously described, to Ignatius or to other subordinates of the Collegiate Church, introduced nothing new, but rather faithfully confirmed the discipline which has been customary from ancient times and has been consistently observed. Furthermore, he observed that such a discipline is consistent with the capitular constitutions approved by Apostolic authority: for it is stipulated therein that if any Canon [of the Collegiate Church] is absent without the license of the Dean and Chapter for three years, his Canonry and Prebend shall be considered vacant. Indeed, such a discipline concerning the granting of such permissions is in conformity with the sacred canons, chapter 7 of *Magna Devotio*, concerning Vows, in which it is written: "Since, according to canonical institutions, a cleric ought not to travel abroad without the permission of his Bishop..." Also, in other canonical chapters, it is established that it is not permitted for clerics to travel abroad except with the permission of their Ordinary. Indeed, in this matter...

[*Latin ed. p. 489*]

CONCERNING THE ISSUANCE OF LETTERS. 489 The Dean, as stated above, is the true and proper Ordinary. Therefore, it pertains to the Dean the right to grant letters of dispensation. Among other things, which have been considered in the defense of the Dean's authority, the following are noted. It has been considered that there are many kinds of letters that Bishops can issue, as Monacelli's *Formularium practicum* states in chapters 3 and 4. In the matter under discussion, four kinds of letters must be considered: some are commonly called "Dimissorial" letters, others are "Testimo-

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nial" letters, according to what was considered in a certain case in Pienza, or Lleinen, concerning ordination, on August 8, 1733. Furthermore, there are "Excardinationary" letters and "Dispensationary" letters. Dimissorial letters, which are those that express the granted faculty for another Bishop to promote a subject of another diocese to the Orders, cannot, according to established Church discipline, be granted by an inferior Prelate, even if he has a territory separated from any diocese, unless he has obtained a special privilege from the Holy Pontiff for granting these letters: but in this matter, there is no question to be raised. Testimonial letters, which do not confer the faculty to ordain, but contain a special testimony regarding the birth, age, life, and morals of a person for the purpose of ordination, were not issued by the Dean in this case; for the letters that he did give concerning Ignatius were not sufficient for another Bishop to initiate Ignatius into the sacred Orders, and furthermore, the Dean himself did not understand that he could issue such letters. Excardinationary letters, which others call "remissorial" letters, and which consist in allowing someone to freely leave their own diocese with their own Bishop, so that they may be received into the clergy of another Bishop, can be granted by the Dean, even without consulting the Archbishop: for just as it is his right to admit someone into his clergy, so too, he can, with equal right, dismiss someone and release them from his authority; for just as the matter arises from certain causes, so too it is resolved by the same. Dispensationary letters, which are given by the proper Bishop to ecclesiastical men who are going abroad, so that they may serve in another diocese, are [not the issue here]. (1) I will soon present a complete account in Appendix X concerning the dimissorial and testimonial letters, which arise from the pronouncements of the Holy See regarding the effective ordination.

[*Latin ed. p. 490*]

400 beyond what is due are admitted to the celebration of Mass, and the Dean may seem to be able to grant this to his subordinates, according to what Fagnanus teaches in chapter "Tuae fraternitati" of *De Clericis, non res*, number 5 and following. He, recalling the question, whether, after the 23rd session of the Council of Trent, concerning "Eadem omnino," which completely exempts the ecclesiastical jurisdiction, a vicar could grant permission to those under his authority to leave for the purpose of study; resolves the question with an affirmative answer; although it seemed to contradict the Decree of Trent, chapter I, § "Eadem omnino"; and Fagnanus deduced this especially from the reason that "if the inferior [prelate] has all ordinary jurisdiction," he must also have the power to grant such permissions, because this is part of ordinary jurisdiction... indeed, if one has the right to institute and dismiss [from office], which is more, he must also have the right to grant permissions, which is less, as in rule 1, not ff. of the rules of law, and chapter "Cui licet," in the same title, number 6. Indeed, the

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Dean of Saint Michael, from the declaration mentioned above of September 26, 1667, exercises ordinary jurisdiction in his church, so that he also has the right to hear cases in the first instance concerning matters and persons subject to him; the right to deprive his subordinates of benefices according to the canons; the right to confer canonries and benefices; and therefore, he must have the right to institute and dismiss [from office]; therefore, according to Fagnanus' teaching, he cannot be denied the right to grant permissions to leave.

DEFENSE OF THE ARCHBISHOP. In defending the rights of the Archbishop, the following reasons were presented, which had been expressed in the vote of the Pro-synodal Congregation mentioned above. This Congregation had undertaken to examine two matters: one concerning the sacred ordination of Ignatius, the other concerning the form of the letters that are usually granted by the Dean, namely, whether both matters have proceeded according to the canons. Concerning the first, it was noted that, according to chapter 10 of session 23 of the Council of Trent concerning "Reform," it is expressly forbidden for inferior prelates to grant dismissal letters to those under their authority who are to receive orders; this applies to all prelates, even those of no diocese; and those concerned may also consult the series...

[*Latin ed. p. 491*]

CONCERNING THE GRANTING OF LETTERS. Benedict XIV wrote in his work on synods, dioceses, book 2, chapter 2, paragraph 15(1). However, he does not assert that inferior prelates can grant dismissal letters, or excardination letters; for dismissal letters carry with them dismissal letters to the Orders: from which it follows that, when a cleric is permitted to be incardinated in another diocese, the Bishop becomes the superior of the incardinated cleric; but in order for someone to legitimately receive the holy Orders, it is necessary that he have either a domicile, or a benefice, or a familiarity, which, if these are lacking, no one can be rightly ordained without dismissal letters, as is clear from the celebrated Constitution of Innocent XII, dated November 4, 1694, beginning with the words "Speculatores." From this observation, the Pro-Synodal Congregation concluded that the ordination of Ignatius was illegitimate, since it was performed without dismissal letters, and neither the Dean himself, who inserted no word in his letters that referred to the holy ordination. And do not say that Ignatius lacked a domicile, since he followed the domicile of his father, who had already established his residence since the year 1861 in the diocese of L. For it was answered that Ignatius abandoned the seminary and the benefice on June 13, 1867, which he held in the Collegiate Church of the Dean in the diocese of N, and was ordained in September of the same year, 1867, by the administrator of the church of L; therefore, his domicile did not yet have those conditions required by the Constitution

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"Speculatores." In this Constitution, it is written in § 5: "Furthermore, a person is considered to be subject to the jurisdiction by reason of domicile, for the purpose of receiving the Orders, only if, although born elsewhere, he has so firmly established himself in a place that, either by residing there for at least ten years, or by transferring a significant portion of his property and possessions, along with his household, to such a place, and by residing there for a considerable time, he has sufficiently and clearly demonstrated his intention of permanently remaining there; and in both cases, he must also truly and genuinely have such an intention, affirming it under oath. But if someone has left his place of origin at an age when he could have become subject to some canonical impediment, even the Ordinary of his place of origin..." (1) See the cases that I have presented in Volume H, the case related in Volume III, pages 65 and 556 et seq., and page 341; also see subsequent pages.

[*Latin ed. p. 492*]

4-92 Monials must present the letters, as mentioned above, and a clear mention of these must be made in the documents of the received orders. However, if it is claimed that these letters are valid or sufficient because the father resides in the diocese of L, the necessary testimonial letters from the Bishop of origin, according to the same Constitution of Innocent XII, are still required, provided that these letters were not included in the aforementioned documents. Furthermore, the letters from the Dean of St. Michael's, who was not the Bishop of origin, cannot be considered equivalent, nor can they be deemed validly issued by the Dean for the purpose of conferring and receiving orders, according to what is stated by Bouix in his treatise on Bishops, page 5, chapter 15, section 2. Finally, the Pro-Synodal Congregation established a procedure for letters that diocesan curias usually issue, so that clerics can legitimately exercise their ministry outside the diocese and celebrate the sacrifice of the Mass. It brought into consideration what Benedict XIV wrote in his Ecclesiastical Institutions, 34, where he stated, based on the prescriptions of the canons of the Council of Trent and a certain encyclical of the Holy Congregation of the Holy Office, that Bishops, Vicars General, and Vicars Forane should not admit external priests to the celebration of the Mass unless they have first presented letters from their own Bishop, free from all falsehood. With these considerations in mind, the following four conclusions were drawn: The Dean of St. Michael's cannot grant either dismissal letters or transfer letters; the letters given to the administrator of the diocese of L were neither dismissal letters nor transfer letters; the ordination of Ignatius was illegitimate; the Dean does not seem to be able to grant dismissal letters, at least not in the usual form, to his subordinates. Among other things observed concerning the confirmation of the rights of the Archbishop of N, the following are noted: The Bishop has a well-founded intention to exercise his jurisdiction over all persons

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and things that are within the scope of his diocese; therefore, he cannot exempt himself from this jurisdiction unless he has been granted a special privilege and uses an exemption within the limits of that privilege. Lower prelates, who do not have a territory separate from the diocese, enjoy a very limited exemption, which is usually passive (1).

(1) See the case related in volume III, page 65 and following.

[*Latin ed. p. 493*]

CONCERNING LETTERS. 493 The privileges of exemption had undergone many limitations by the Council of Trent; and it was indicated in session 24, chapter 11, concerning exemptions, that it was decreed concerning those who are exempt: "Because the exemptions and privileges which are granted to many under various titles, are now recognized as causing disturbance in the jurisdiction of the Bishops, and as affording to the exempt an opportunity for a laxer life; the Holy Council decrees that, if at any time, for just, grave, and almost necessary reasons, it should seem fitting to bestow upon some honorary titles, such as Proto-notary, Acolyte, Count Palatine, Royal Chaplain, or other similar distinctions, either in the Roman Court or elsewhere, and also if others are taken into a monastery as oblates, or in any other way are attached or are serving under the name of servants in monasteries, hospitals, colleges, or under any other title, it should be understood by the Ordinaries that nothing is taken away from these privileges, so that those to whom they have already been granted, or to whom they may be granted in the future, are fully subject to the Ordinaries, as if they were delegates of the Apostolic See, in all things, and especially concerning Royal Chaplains, according to the Constitution of Innocent III which begins, "Cum capella," except for those who serve in the churches and other places of said military orders, and who reside within their walls and houses, and who live under their obedience, or those who have legitimately and according to the rule of the aforementioned Order made their profession, of which the local Ordinary must be informed, notwithstanding any privileges, even those of the Order of St. John of Jerusalem and other military orders." To this disposition of the Council of Trent, the personal exemptions were subjected by the Constitution of Gregory XIII, *Circumspecta*, dated November 25, 1580; in which the Pope, following the disposition of the Council of Trent, concerning the Military Orders of Jerusalem, excepted only these personal exemptions: "except for those who serve in the churches and other places of said military orders, and who reside within their walls and houses, and who live under their obedience, all of which are to be understood together; or those (excepted) who legitimately and according to the rule of the aforementioned Order have made their profession, of which the local Ordinary must be informed." With all these things noted above, it is clear that a Dean, being an inferior

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Prelate, cannot issue dismissal letters, as has been stated above.

[*Latin ed. p. 494*]

494 StPEK, by law and as Dean, fully conceded. But to anticipate future questions, it was further inquired whether the Dean could issue testimonial letters for the purpose of ordination; to which it seemed necessary to give a negative answer, based on the analogy of law: for it is proper for the Bishop alone to issue such testimonial letters, so that neither his General Vicar can issue them without a special mandate from the Bishop, according to the Resolution of the Sacred Congregation, as reported by Monacelli in his Formulary, page 1, title 4, formula 9, number 10, in these words: "to commend by testimony, etc., even if they are absent, and for the purpose of assuming a pension or inheritance"; but not by the testimony of the General Vicar, unless he has a special mandate to grant dispensations. Moreover, in another case of the Collegiate Church of St. Michael, discussed on May 29, 1852 before the Sacred Congregation, concerning the students of the seminary, who, with the exception of the provisions of the Council of Trent regarding those who are exempt, were declared by the Sacred Congregation to be exempt from the jurisdiction of the Archbishop, in the first doubt, but nevertheless, with regard to the fourth point, in these words: "Whether, except for the examination before the Ordinary (Dean), the judgment regarding the other necessary conditions for receiving the Orders, especially concerning doctrine and morals, pertains to the Archbishop, or rather to the Dean, in this case?" The same Sacred Congregation answered: affirmatively to the first part, negatively to the second. As for letters of dismissal or excardination, two acts were distinguished: one by which someone is released from one diocese, the other by which the released person is incorporated into another diocese. Indeed, although the first act did not seem to be denied to the Dean, as noted above, yet, because of the second act, it seemed necessary to deny it. For the second act involves the issuance of testimonial letters for the purpose of ordination, according to the Constitution *Speculatores*; and this takes place after the cleric has been released from the collegiate church by letters of excardination. As for letters of dispensation, which are usually issued by the proper Bishop to ecclesiastical men who are traveling abroad, in addition to those mentioned by the Congregation, a certain response was recalled from the case of the jurisdiction of Tarvisina, which was discussed by a special Congregation on November 27, 1856; to the doubt expressed in these words: "Whether permission to be absent from residence applies to the Bishop or to the Chapter, for Parishes and Vicars?" The answer was: "It applies to the Bishop." Furthermore, this applies to the Chapter, except...

[*Latin ed. p. 495*]

CONCERNING THE ISSUANCE OF DOCUMENTS. 495. The passive

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power derived from the Bishop's jurisdiction, through the force of privileges, had been recognized by the Sacred Congregation (1). Furthermore, in Regium, discussed on January 30, 1836, a similar argument was debated concerning the question: "Whether the Prefect of a Collegiate Church has the right to grant dispensations for clerics serving in the same Collegiate Church, both in the case of a prolonged absence and in the case of ordination to be performed by any Bishop;": The Sacred Congregation responded: negatively in all cases. Considering these and other observations, the following question is to be resolved: "Whether and in what form it is permissible for the Dean of St. Michaelis to grant documents to his subordinates in this case."

RESOLUTION. The Sacred Congregation, having knowledge of the matter on June 22, 1871, decided to respond: It is not permissible for the Dean to grant letters of dispensation and attestation for the reception of orders, nor letters of dismissal or excardination, by which another Bishop is empowered to admit clerics from his church into his own diocese; however, he may grant letters of dispensation for legal purposes, with the clause that they be approved by the Archbishop.

FROM WHICH WE MAY GATHER:

I. Privileges of exemption granted to inferior prelates are only valid to the extent that they demonstrate what has been granted.

II. Indeed, after the Council of Trent, they are only valid to the extent that they have not been derogated from in that which has been expressly granted or legitimately prescribed.

III. Therefore, from the title of Ordinary, one cannot argue for all ordinary jurisdiction, but only for that which has been expressly granted by privilege and has not been derogated from.

IV. Especially if the matter concerns things that would be considered among the more serious causes, such as the cause of Holy Orders.

V. Therefore, unless the privilege of exemption explicitly speaks of Holy Orders, it cannot in any way be extended to such a cause; indeed, if before the Tridentine Council, either by privilege or by legitimate... (1) This case is the one that you have explained in volume III, pages 65 and following.

[*Latin ed. p. 496*]

496. Concerning the prescription of rights granted to lower prelates to ordain, it should be noted that, after the Council of Trent, this right requires a new privilege (1).

(1) The Council of Trent, concerning lower prelates who are exempt, and who possess more or less ordinary jurisdiction, decreed the following regarding Holy Orders, in Session 23, Chapter 10, on Reform: "It is not

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permitted to Abbots and others, whatever their status, even if they are exempt, within the boundaries of any diocese, to confer the Tonsure or lower Orders upon anyone who is not subject to their regular discipline; nor may these Abbots and others who are exempt, or any colleges or chapters, even of cathedral churches, grant letters of dispensation to secular clergy so that they may be ordained by others. But all such ordinations, with all due observance, shall pertain to the Bishops, within whose diocesan boundaries these places are located; notwithstanding any privileges, prescriptions, or customs, even those of long standing. Furthermore, the penalty imposed on those who, contrary to the decree of this Holy Council under Pope Paul III (ibid., Session 7, Chapter 40, on Reform), obtain ordination from a chapter, when the episcopal see is vacant, shall be extended. Those who grant dispensations contrary to the decree shall, by their own action, be suspended from office and benefice for one year." Cardinal De Luca, in his Annotations to the Holy Council of Trent, discourse 44, paragraph 47 and following, writes concerning lower prelates with regard to their power to grant letters of dispensation, and distinguishes as follows: "Either we are dealing with places that are truly located within the territory of another diocese; therefore, in this case, both the passive exemption from the diocesan authority, and the active jurisdiction of the lower prelate with the clergy and people of that place, or with a certain class of persons, apply. Or, we are dealing with places that are truly part of no diocese, but are located outside of all dioceses, with a separate territory, as if they were a diocese of the lower prelate, who should be considered the true ordinary, according to the other categories of lower prelates mentioned. In the first case, concerning those lower prelates who are exempt and truly located within the territory of another diocese, there is a distinction between secular and regular clergy. For, when it concerns professed religious who are promoted to higher orders under the title of religion and poverty, it pertains to the superiors of the religious order to choose the superior from whom they must be promoted; because, due to the structure of religious orders, which is universal or republican in form, with frequent changes of religious from place to place, professed religious are not considered to belong to any particular diocese." Barbosa de Episc., alleg. A., and others, write extensively on this matter. "However, when it concerns secular clergy and people, today, in light of the decrees of the Council of Trent, regardless of any broad exemption, it is beyond dispute that such lower prelates do not possess the power that pertains to the ordinary or diocesan, which has been delegated by the Holy Council of Trent; therefore, there is no distinction to be made between those who are exempt and those who are not." "However, when it concerns a place that is truly part of no diocese, with a separate territory, in those ancient times after the publication of the Council, this matter was ambiguous; therefore, the Most Holy Congregation of the Council provisionally entrusted the matter to the neighboring

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bishop until this matter could be more fully considered. Subsequently, at the request of some of these lower prelates, resolutions were issued stating that these prelates should have the power to..."

[*Latin ed. p. 497*]

CONCERNING THE ISSUANCE OF LETTERS. 497. Hence, the power to grant dismissal letters or testimonial letters for the purpose of Ordination, or even dismissal letters that pertain to the cause of Ordination, is not held by a lower Prelate, at least not one who does not have a separate territory from the diocese. VII. Such a restriction of rights necessarily entails a certain dependence of clerics (who are immediately subject to a lower Prelate) on the Bishop within whose diocese they reside. Furthermore, it is permissible to grant dismissal letters to any Catholic with the approval of the Antistite, in the same manner in which it is permitted to any local Ordinary. Some have neglected this, and therefore this provision has been maintained for a long time. However, when the same was requested in modern times, it was denied by the Holy Congregation, because the opinion of the modern Congregation seems to be that even in these Prelates, this conciliar provision regarding the conferring of Orders should apply, which pertains to the nearest Bishop, and therefore it seems to impose too much obligation in this matter. If there is a military chaplaincy, of which one exists, the Ordinary of Clairac has a legal right over the cleric subject to him for the purpose of Ordination, so that no one else can complain of an injury inflicted. Thus, the Ordinary who confers a Benefice upon a cleric can ordain him, even if a prior residence is not required. However, through excardination, a cleric is released from his own Ordinary in order to be incorporated into the clergy of another diocese, and through such incorporation, the cleric escapes the jurisdiction of Speculators. But this observation, made by the Archiepiscopal Pro-Synodal Congregation, does not seem just to me. For when it is a matter of a cleric who is enrolled in another diocese by an act of excardination obtained from his own Ordinary, it does not seem necessary for a prior residence in order for him to be ordained by a foreign Bishop. Indeed, the titles established for the purpose of legitimate ordination were established so that the Ordinaries would be secure in their own jurisdiction, and no one else could complain of an injury inflicted upon them. These titles are four: origin, domicile, Benefice, and *falci*. In this diocese, it is said that the Bishop intervenes in the right that the excardinating Bishop had over the cleric, so that both are secure, and no one can complain. Therefore, among the four titles that are established by law, no other equivalent can be counted, which is the title of legitimate excardination. I call it equivalent because, indeed, he who ordains with this title ordains with the same right with which he could have ordained the one who excardinated. As for excardination, see what I have noted in the case of excardination, in vol. Y, page 447 and following. From the practice

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that prevails in Rome, although very rarely clerics of other dioceses are enrolled in the Roman clergy through excardination, it is observed that the cleric who is excardinated, at the very moment he is enrolled in the Roman clergy, must swear that he will remain in Rome; after this oath has been taken, he is promoted to the Holy Orders, without any further inquiry regarding domicile, with the reservation of other things that must be observed.

[*Latin ed. p. 498*]

APPENDIX X. CONCERNING THE NATURE OF DISPENSATIONS AND, IN PARTICULAR, TESTIMONIAL LETTERS, REQUIRED BY THE ORDINARY OF THE DOMICILE AND ORIGIN, SO THAT SOMEONE MAY BE RITE INITIATED INTO THE SACRED ORDERS BY A DIFFERENT BISHOP.

If someone is to be initiated into the sacred Orders, the Benefice of Saint Michael the Archangel in his own Diocese, and therefore it was permissible for Clericum, who, by virtue of this type of Benefice, was subject to him, to be initiated into the sacred Orders under that title without dispensations from the Bishop of Pienza. It is certain that Lawrence possessed that Benefice; but the Bishop of Pienza maintained that it was of such a nature, and yielded such revenues, that it would satisfy the requirements of Innocentian law. PIENTINA, OR ILÇINEN. The nature of the Benefice is such that the Patron has the power to remove the Beneficiary for a legitimate reason, and also where the Beneficiary, being sufficiently endowed with property, is restored or acquires another Benefice. Indeed, in the year 1705, Michael Galardus, in his Will, ordered that the Benefice be established in these words: "A Benefice shall be perpetually erected under the title of Saint Michael the Archangel, which shall be of a removable nature, and subject to the will of the undersigned Patron, with full power to remove the person appointed, for a legitimate reason, especially if he has not fulfilled the obligations imposed upon him, and has negligently deteriorated the property, without, however, releasing him from the obligations."

Regarding this matter, questioned by letters from the Sacred Congregation, he considered it proper to offer a suitable excuse, and maintained that he had done nothing that deviated from the aforementioned Constitution of Innocent XII, which begins with the words "Speculatores." He stated that Lawrence had, before the aforementioned cause, obtained, through other means, a sufficient income.

In the preceding cause, in which it happened to be mentioned in passing about dispensations, testimonial letters, and excardination letters, I now present the following case, which was debated before the Sacred Congregation on June 18, 1733, and again on August 8 of the same year: in which a distinct and accurate discussion took place concerning the nature and form of the testimonial letters that must be given by the Bishop of the domicile

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and origin for the purpose of sacred ordination.

[*Latin ed. p. 499*]

APPENDIX X. 499 and so that they may be assisted, and treated as good masters, I wish that it should always be held by a native priest, and a resident of that land, precisely the poorest; and if there is some poor cleric, also native and residing there without an ecclesiastical or patrimonial title, and poorer, and closer to the priesthood, then it may be established for him as an ecclesiastical endowment; and when he has acquired another sufficient benefice or endowment, then my benefice shall remain free for the sustenance of life, either according to the synodal assessment, or, if that is lacking, according to the custom of the region, for the promotion of candidates to the sacred orders, after deducting the expenses, and that it may suffice for him; and that it may be peacefully possessed by the one being ordained. It is begun – Although a cleric, by reason of any benefice obtained in a foreign diocese, is subject to the jurisdiction of that bishop in whose diocese such a benefice is situated, nevertheless, we wish this rule to be observed without exception in this matter, so that no one may be considered to acquire such a subjection for the purpose of receiving orders, unless the aforementioned benefice provides him with a suitable income.

Since no one is ordained from the 6th hour, and the Holy Council of Trent, in chapter 8 of the 23rd session, concerning "These matters," it should be noted in the first place that there is one thing to inquire, whether it is permissible to confer orders for the title of a manual and removable benefice, because such a title does not seem legitimate for the purpose of ordination; and another thing, whether, if the bishop confers orders in this way, he has violated the canonical laws by promoting someone to orders who is subject to another. And in this way, the bishop who confers orders, having erected a benefice by the authority of the bishop within his diocese, is considered to have violated the canonical laws by promoting someone to orders who is subject to another. The Innocentian Constitution speaks of a benefice necessary for a lawful ordination, with these words: "Beneficium perpetuum erigendum sub titulo s. Michaelis Archangeli quod sit natura amovibile et ad nutum Patroni cum plena facultate praesentandi personam et ex causa legitima eam removendi; praesertim vero si integre non adimpleret onera imponenda et culpabiliter bona fundationis deteriora redderet, quin liber a reficiendis bonis evadat: et ut eadem fundationis bona recte servantur et administrentur, volo ut semper nominetur Presbyter nativus et incola dictae Terrae et singillatim pauperior: quod si adsit aliquis pauper Clericus nativus et incola sine titulo ecclesiastico aut patrimoniali et sit pauperior et Presbyteratui proximior Beneficium hoc constitui ei possit in patrimonium ecclesiasticum; qui tamen postquam acquisiverit aliud sufficiens Beneficium aut Patrimonium tunc liberum maneat meum Beneficium."

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Regarding the first part of this distinction, it is the common opinion that a manual or temporal benefice is not sufficient, but that the ordination must be conferred for the title of a perpetual benefice, as Garz teaches, in "De Beneficiis Parochialibus," book 4, chapter 2, number 83 and following; and Paris, in "De Resignatione Beneficiorum," book 2, question 6, number 2 and following; and Ventriglia.

[*Latin ed. p. 500*]

500 APPENDIX X V. A benefice of slight value, although not conferring a title, nevertheless conferred jurisdiction, before the publication of the Bulla *In lib.* 4, cap. 4, no. 434; and it was decreed that, for the purpose of jurisdiction, a cleric could lawfully be ordained a chaplain in the diocese of the Bishop who possessed that benefice, as stated in *Decr.*, page 239.

Concerning the other distinction, several Doctors, including Fagnan in *Cap.*, no. 98, on penance, and *Remis*, *Camera*, *panil*, *diversor*, *iur. rubr.* 9, cap. 8, no. 42, Engel in *ius Canonie*, lib. 4, tit. 44, § 2, no. 24, Pax Jordan, tom. 4, lib. 3, tit. 6, no. 74, Antonell in *de iur. cleric.*, I, 4, p. 3, c. 32, no. 6, Panimoll, tom. 4, *dec.* 14, annot. 2, no. 66, Lamper in *explicat. Bullae—speculat.*, part. 40, an. 355 to 366, are of the opinion that a benefice, whether manual and removable, is sufficient for this purpose, namely, that the beneficiary be subject to the jurisdiction of the Bishop in whose diocese that benefice exists; therefore, such a benefice suffices in order that the Bishop may declare that the Orders were conferred not on a subject of another, but of his own, provided that the ordination itself is made according to a legitimate title.

Others, however, dissent, maintaining that a perpetual benefice is required for this purpose, so that one may be constituted in it as suitable for the Order, as is evident from Archidiac., in *Cap.*, "Cum nullus" (no. 4), *de temp. ord.*, in 6°, and Ioan. And. ibid. (no. 4), Ancharan, sub no. 2, *prax. par.* 2, annot. 42, § / no. 2, Antonell in *de regim. Eccl.*, lib. 2, cap. 2, no. 4, Vivian, *de iurepatr.*, *par.* 4, *Cap.*, "Cum nullus" (no. 5), *de temp. ord.*, in 6°, Geminian, ibid. (no. 8), Fermosin, *de Offic.* et *Sacr. Eccles*, ad *rubr. de tempor. ordinat*, quaest. 6, no. 3 and seq., Antonell in *de iur. cleric.*, lib. 4, *par.* 3, cap. 32, no. 5 and 6, Pirhing in *Decretal*, lib. 4, tit. 44, sect. 4, no. 34, Schmahgrueb in *eod.*, lib. 4, Tit. 44, *de temp. ord.*, no. 44, Garz, *de Benef.*, part. 2, cap. 4, no. 3, Pax Jordan, *lucubr.*, tom. 4, Lib. 3, tit. 6, no. 74, Diana, *par.* 7, *tract.* 2, resol. 49, according to the ancient impression, as well as Be Franc, no. 3, Passer in *d. cap.*, "Cum nullus," Quaest. 4, art. 3, no. 64, Panimoll, *dec.* 44, annot. 2, no. 75 and seq., and *dec.* 439, no. 44.

But perhaps those who present this second opinion intend it only of a manual benefice, which is not erected by the authority of the Ordinary, so that it cannot properly be called an ecclesiastical benefice. Indeed, Ioan. And. Ancharan, Archid., and Franc, cited above, speak of a cleric assigned

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to a praebend, with the fruits of one praebend assigned to him for as long as...

[*Latin ed. p. 501*]

IX. Concerning the duration of a Master's office, according to Chapter [unspecified]. Because some Masters have, it seems, established chaplaincies without manual statutes, not erected by the authority of the Ordinary, and which appear to have arisen as true ecclesiastical benefices, as is evident from the resolution of this Holy Congregation in Ulyxbonen, Occidentalis, June 26, 1723, book 73, decrees, page 285, and August 4, 1724, book 74, decrees, page 340. Conversely, if a benefice, whose founder has added a condition that its holder may be removed for a legitimate reason, is established with the approval of the Bishop, then such a benefice truly possesses the nature of an ecclesiastical benefice, as demonstrated by Garz, *De Beneficiis*, part 4, chapter 5, section 4, number 66, and following; Lancelot, *De Re Beneficiaria*, book 4, question 7, number 41, and following; Corrai, *In Practica Beneficiorum*, book 4, chapter 6, number 280; and Amostaz, *De Causis Piis*, book 3, chapter 4, number 40, and 501. It also seems worthy of consideration that the power of removing the holder of the benefice is not freely and absolutely placed in the will of the founder, but is constrained by the condition of a legitimate cause; furthermore, that in the second part of the disposition, the testator permitted a poor cleric to be initiated into the priesthood under the title of this benefice. However, it seems to give rise to doubt whether this case also falls under the power of removal, or whether, in this case, such a power is not considered to belong to the founder, but rather is accompanied by another provision: "acquired that he has another sufficient benefice or patrimony, then he remains free in regard to my benefice." Indeed, if this interpretation is possible, it would seem to invalidate the reason why it is not permissible to promote someone to the sacred orders under the title of a manual benefice, namely, so that, after the removal, the priest would lack the necessary means of subsistence. However, this is not to be feared, where the condition is attached, to the extent that either from another benefice or from a sufficient patrimony, sufficient provision is made for the sustenance of the priest. Therefore, a benefice, even one established in perpetuity, can, without invalidating the aforementioned, be designated, and its resignation can be admitted, as the Council of Trent, Session 2, Chapter 2, *De Reformatione*, states. Furthermore, in the present case, it appears that... (1) In Latin: "postquam acquisiverit aliud sufficiens Beneficium aut Patrimonium, tunc liberam maneat meum Beneficium."

[*Latin ed. p. 502*]

502 APPENDIX X. provided that the one who had been ordained to that office is provided with other revenues sufficient for a decent life, and it is

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also to be understood that it is left to the judgment and conscience of the Ordinaries to decide whether to allow it, the Holy Congregation responded in Ariminen on June 4, 1723, as stated in Lib. 73, Decret., page 333, that a Bishop can promote another from a benefice obtained in his diocese, by reason of and by the title of any benefice, to higher orders, unless, as stated in Discep. 4, Tom. 5, par. 4, which he wrote on that matter at the order of this Congregation. Furthermore, the Sacred Congregation, on March 4, 1749, in response to a request from the Sacred Congregation in Città di Castello, added that Bishops should also be able to grant that Clericus Jerome of Leonardis, from Montalcino, could receive sacred orders for the title of a chaplaincy, provided that the patrons promised that they would not use that faculty, the Holy Congregation responded with these words: "For the sake of gratitude, and with the consent of the patrons, it is permissible, provided that the Orator himself is sufficiently provided for elsewhere, that the chaplaincy should revert to its original nature of being disposable, and that it should be understood that the revenues of the original endowment are received by Lawrence."

Now, it also remains to be seen whether the benefice, to the title of which Lawrence was promoted, has an annual revenue sufficient for a decent livelihood, and whether, in particular, it is twenty-five Florentine crowns in the diocese of Montalcino.

From the testimony of two priests, to whom the Bishop of Montalcino entrusted the task of investigating the truth, it appears that, from the fruits of the goods which constituted the original endowment of the benefice, an annual revenue of six and twenty crowns can be obtained. However, there is an obligation of fifty masses attached to the benefice. But whether the obligations of masses are to be deducted from the estimated revenue, in order to determine the effect of what is being discussed here, is a matter for consideration.

Finally, the Bishop of Montalcino added that other clerics had also been ordained to sacred orders by previous bishops to the title of the same benefice, namely Joseph Mary Pisabi, who relinquished that benefice when he obtained another parish benefice in the diocese of Cras.

This concerns the ordination of Lawrence. As for testimonial letters, the Constitution of Innocent XII states as follows: Furthermore, a cleric who has been legitimately promoted by his own bishop to the same clerical tonsure, or even to higher orders, is not...

[*Latin ed. p. 503*]

X. S03 And although there was no testimony regarding the legitimate birth of Lawrence in those documents (which is also what the aforementioned Bull requires), it should nevertheless be considered certain, since we are dealing with the Cleric from Clairac, concerning whom it is evident from the very documents that he had already been promoted to the lower

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Orders by the Bishop of Pienza.

It was fitting that all of this should be explained more fully by the Secretary, both because the question has something unique about it, and also because nothing else should be circulated in writing from which the Most Reverend Fathers might ascertain the state of the controversy. For a clearer understanding of his decision, the following doubts are presented.

I. Whether the Cleric Lawrence Medicheschius was lawfully ordained to the title of the benefice, of which we are speaking.

II. Whether the aforementioned Lawrence was lawfully promoted to the sacred Orders by the Bishop of Montalcino, within whose diocese that benefice is located, without dismissal letters from the Bishop of Pienza.

III. Whether the testimonial letters, which the aforementioned Lawrence obtained from the Bishop of Pienza, were sufficient for a lawful ordination.

IV. Whether, and who received the Orders, and who conferred them, incurred the penalties established by the Holy Council of Trent and by the Bull *DIX*, namely, that if anyone, upon receiving testimonial letters from his own Bishop, whether of origin or of residence, concerning his birth, age, morals, and life, has obtained them, and has presented them to the Bishop ordaining him, and has preserved them in the records of that court, that he should be subject to penalties.

The letters, which Lawrence Medicheschius obtained in the year 1730 from the Bishop of Pienza, are as follows: "We testify that the Cleric Lawrence Medicheschi of our diocese has been established in the lower Orders, without being bound by any bond of excommunication, irregularity, or any other canonical impediment, as far as we know, nor has he been accused of any crime, but he is endowed with good and honest morals, and is such as befits those called by the Lord."

Therefore, the Bishop of Pienza states that these testimonial letters were not given to Lawrence with the intention that he might use them to receive the sacred Orders from another Bishop, but that they were of the kind that are generally granted to any clerics leaving the diocese; and that there is another specific formula by which testimonial letters are issued by Bishops for promotion to the sacred Orders, as can be seen in Monacell. *Formul. Eccles.*, vol. 1, title 4, formula 9, page 82, and in Lamperex in the commentary on the Bull *Speculatores*, page 39, note 311.

However, the Bishop of Montalcino believes that these letters were sufficient to satisfy the requirements of the Bull *Innocentiana*.

Speculatores - in casu etc.: The Holy Congregation of the Council, having knowledge of the case on July 18, 1733, considered it appropriate to respond:

[*Latin ed. p. 504*]

504 APPENDIX » To the first Affirmative. To the second Affirmative. To

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the Affirmative in the case, concerning which the fourth Negative is. To » X. concerning his birth, age, morals, and life, having obtained them, and having presented them to the Bishop ordaining him, to be preserved in the records of that Curia. » Therefore, the formula to be examined to determine whether it has satisfied the law is this: Letter- TESTIMONY, which Lawrence obtained from the Bishop of Pienza in the year 1730, and upon which the Bishop of Ilcines conferred upon him all the sacred Orders in the year 1731 for the title of the Benefice. In the last Congregation held on July 18, this cause was discussed, which concerns the interpretation of the most prudent and salutary Constitution issued by the Most Holy See concerning Lawrence Medicheschi, established in the minor Orders, without any bond of excommunication, irregularity, or any other canonical impediment, at least as far as we know, having been incurred, nor having been accused of any crime, but being endowed with good and honest morals, and such as befits those called by the Lord. XI, whose beginning is — Speculators — . But Innocent, with the words: "Whether the testimonial letters, which Lawrence Medicheschi obtained from the Bishop of Pienza, were sufficient for a lawful ordination," — answered — Affirmative in the case, concerning which we are speaking — and it seemed to us that the question should be examined again in the diocese, because the Testimonial Letters concerning his birth are lacking. It is therefore necessary to examine these Letters, since grave irregularities are present in the reasons given, and more than one have disagreed in opinion. Boniface » According to the law promulgated by the Pontiff Innocent, it is thus: Furthermore, a Cleric who has legitimately been promoted by his own Bishop to the same Clerical Tonsure, or even to the minor Orders, cannot be promoted to further Orders by another Bishop, by reason of and title to any Benefice obtained in that diocese, unless before receiving such reception, he has testimonial letters from his own Bishop, both of origin and of domicile, as stated in chapter VIII, section i, of "De Fil. Presbyt." In addition, it was not considered necessary to provide testimony of Lawrence's legitimate birth, because it was clear from the Letters themselves that he had already been established in the minor Orders. Indeed, if the previous reception of the minor Orders is not sufficient in itself to prove that the Cleric was born of just marriages, an illegitimate person can, by dispensation, be made capable for the minor Orders, according to the aforementioned.

[*Latin ed. p. 505*]

IXx. Chapter 1, section *De Facultatibus Presbyterorum*, paragraph 6. "Therefore, it was necessary to present testimony regarding his legitimate birth, so that Lawrence could be raised from the lower Orders, which the Bishop of Pienza had granted him, to the sacred Orders, and so that the Bishop of Ilcinea, through that means, which the Bull of Innocent prescribes, would have certain knowledge of such a condition; or, if it were

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lacking, that he would first be instructed about the obtained Apostolic dispensation." Secondly, these Letters require testimony regarding his age, so that the ordaining Bishop would be certain of his age, according to the laws of Trent, as being suitable for each of the sacred Orders. Although both proofs could be completed with other documents, it is not considered sufficient to rely solely on them, as a foreign Bishop could be deceived by false documents (as often happens), and therefore the Pope seems to have required testimony from the Bishop, both of origin and of domicile, since they are less easily deceived concerning people already known to them, and subject to their jurisdiction. "Regarding this matter, La Croix, book 6, paragraph 2, number 2252, discusses: 'If neither Bishop has testified, for example, regarding age, the one to be ordained must present testimonial documents regarding age from the baptismal record written by the Parish Priest. Is this sufficient?' Some have denied it, because the Constitution of Innocent XII requires that testimony regarding age be given definitively by a Bishop, and it is not sufficient to obtain certainty from elsewhere; otherwise, if the ordaining Bishop is certain, for example, of Titus's morals, because he has lived with him for a sufficient time, he could ordain without the testimonial of any other Bishop. The reason could be that, although in this particular case the purpose of the law, which is certainty regarding age, seems to be suspended, it does not cease for others, because indeed the purpose of the law remains, which is to avoid frauds, which would commonly occur if any certainty were accepted from the testimony of anyone other than the Bishop of origin or domicile. On the contrary, two or three Doctors, whom I consulted, believed that it would be sufficient, because if certainty were always obtained in this way, there would never be a danger of fraud; and although these have not been testified to by Bishops, it is presumed that they are omitted because they are unaware, and thus they would refer to obtaining certainty from elsewhere." Furthermore, it is necessary to obtain testimonial letters from the Bishop of origin, even if someone has left that place at an age in which they could not have incurred any canonical impediment (and therefore, in the case in which the Bishop of origin only testifies regarding birth and age), this is deduced from a resolution published in the Ordination of Laquedonien, or Bitonto, on November 16, 1109, as found in book 59 of the Decretory, page 365, number 3. Thirdly, it should be noted that there was no specific testimony given regarding the life and morals of Lawrence, for the purpose of promotion to all the sacred Orders. There is a great difference between the manner of living and discipline.

[*Latin ed. p. 506*]

506 APPENDIX X. a discipline that satisfies the requirements of the lower Orders, and another, which is required by a higher grade, whether Subdeacon, Deacon, or Presbyter. Therefore, the Holy Council of Trent,

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with distinct consideration, requires a particular testimony regarding the condition of morals and the manner of life, consonant with those grades, both for the lower Orders and for individuals in the higher Orders, as can be seen in chapters 5, 7, 8, 42, 43, and 44, session 25 concerning Reforms, as noted by Fermosin in *ad Tit. de Scrut. in Ord.*, question 4, and much more fully and clearly by Rallier in *De Sacr. elect. et ordin.*, title concerning various testimonies of the candidates, article 2, from page 45 to 68.

Although the Innocentian Constitution does not expressly prescribe that a testimony from the Bishop of origin and domicile regarding the life and morals of the cleric who wishes to be promoted to higher Orders by another Bishop must be obtained, it is inferred from the very nature of the matter being discussed that this was the intention of the legislator; for since this rule is established to be observed precisely for the purpose of Ordination, and so that the Bishop initiating the new and recently assigned priest, who is not at all known to him previously, can be certain that the morals of the one being ordained are in accordance with the sanctity of the grade being received, it clearly follows that Pope Innocent intended that testimonial letters should commend the life and morals of the cleric, not absolutely and simply, but in relation to all the sacred Orders to which he wishes to be promoted; and that, in order that he may be initiated into them, he must be proven by such letters to be suitable and worthy; therefore, the Pope also commands that mention of these testimonial letters be made in the testimony given at the time of the conferral of the Orders.

This interpretation is not obscurely confirmed by the decree issued by the Most Holy Charles Borromeo at the Fourth Provincial Council, part 2, title 4, which pertains to the Sacrament of Orders, in these words: "It often and easily happens that either a man's morals change, or that something about his life, which was previously less known and explored, is later revealed, so that what the Bishop or Superior once considered worthy and deemed suitable for initiation into some sacred Order, he later finds to be unworthy and unsuitable for the conferral of the same, or a higher Order. Therefore, in order to prevent errors and multiple frauds, and to ensure that those decrees of Trent are fully observed, one [rule] prohibits those from ascending to a higher grade who have not, in the judgment of the Bishop, remained in the lower grade for some time, and who have not progressed with age, in merit and in learning; another [rule] prevents anyone from receiving the first Tonsure or any Order from another Bishop, unless his probity and morals are first commended by a testimony from his own Ordinary: another Bishop or Superior..."

[*Latin ed. p. 507*]

Firstly, it must be observed that, according to his prudence and piety, he should always ensure that no one, before the time of the sacred Ordination is near, is ever granted, without a necessary reason, letters of such a testi-

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monial nature, or dispensations, for the reception of Orders from another Bishop. 507 Formul. 9, page 82. And this itself seems to be deduced from the recent Council of Trent, title 6, chapter 4, where the Pope, speaking of such testimonial letters, concludes as follows: "We do not wish that any testimonial letters whatsoever should be granted, unless a prior examination has approved that the person is capable of receiving the Order." Therefore, it is clear that testimonial letters must, in order to be valid, serve to testify to the character of the person, so that they may satisfy the Holy Council of Trent, especially with regard to the suitability and qualities necessary for such an Order. And indeed, the approved and tested example of such testimonial letters, which are issued in Rome by the Most Eminent Vicar, is this: "Since NN. was born in the city, and by chance, from the Bishop NN., his Ordinary, to whom he wishes to be ordained to the first clerical Tonsure (or minor Orders, or sacred Orders, concerning which judgment is made regarding the form and quality of the letters), testimonial letters regarding him, concerning his birth, age, life, and morals, are required by the Tridentine Fathers, in order to restore and maintain the firmness and discipline established by His Holiness Innocent XII, which begins: 'Speculators' – humbly requested. Hence, by these present, we make known and attest that the aforementioned NN. was born of a legitimate marriage in this city on the day of August, and was baptized on the day of in the parish church of S. N., confirmed with Holy Chrism in the Holy Lateran Basilica, and in his own parish church of S. N.' Lamperez reports this formula in his Commentary on the Bull 'Speculatores,' page 39, number 3H. Moreover, Monacell. also transmits it in his 'Formularium Fori Ecclesiae,' volume 4, title 4, as a formula proclaimed without any censure or other canonical impediment, by which the person may be prevented from receiving the said clerical Tonsure (or minor Orders, or sacred Orders).

[*Latin ed. p. 508*]

508 APPENDIX X. it may be (as we know) that he was deceived throughout the entire time that he resided in the City, namely from his birth until the month, etc., of the year, etc., but that he was, and is, in a state of freedom, and unburdened, living a good life, with good morals, and a good reputation, as it has been demonstrated by legitimate documents in the Secretariat of our Tribunal." Furthermore, the Roman Pontifical prescribes, as is also mentioned in chapter 1, concerning Scrutinies, in the Order of proceedings. Indeed, during the very celebration of the Orders, the Bishop openly asks the Archdeacon, or the one performing that office, whether he knows those who are to be promoted to the Diaconate and the Priesthood, and he responds aloud, concerning each of them, as far as human frailty allows, "I know and testify that they are worthy to receive this burden of office." Certainly, the sole testimony that a cleric to be promoted is worthy to receive such Orders is that testimony, which can be understood from the

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difference between letters of this kind, as is recounted by Monacell, volume 1, title 4, formula 3, and formula 9. > Truly, however, the testimonial letters, which are given with the intention of being presented to another Bishop to confer Orders upon him who has obtained a benefice in his diocese, differ from the testimonial letters, which are usually granted to commend a cleric departing from the diocese, as the formula for these also is found in Monacell, op. cit., title 4, formula 6. But if letters of this kind, which do not express any regard for promotion to Orders, are approved as being suitable, and as satisfying the requirements of the Bull of Innocent, for receiving Orders from another Bishop, an easy path would be opened to fraud, with a considerable detriment to ecclesiastical discipline, as was the case with the Bishop of Pienza, who, without any particular reason, but rather in relation to the Order to be conferred, and to that sacred ministry which is to be undertaken, did not judge them to be worthy and suitable. "And furthermore, if testimonial letters are conceived in this way, it cannot be said that they are different from dismissal letters—if we are speaking of testimonial letters. Indeed, I am not mistaken that a difference has arisen in this matter from my Court, for the dismissal letters granted to the cleric Lawrence Medicheschio shortly before his death, as to all clerics, these are requested, especially upon departure, but with a limitation, and without any regard whatsoever for receiving Orders, which was not even considered, — and below — I have heard it said that..."

[*Latin ed. p. 509*]

"Thus, it has been reported that a certain individual celebrated Mass in this diocese, claiming to have been ordained a priest. Similar complaints were also presented to this Holy Congregation long ago by the Archbishop of Pisa, concerning Peter Christopher Cosci, who had resided for a long time in the diocese of Pisa. The Archbishop wrote that the Vicario General had issued testimonial letters to him for another purpose, namely, to receive the Orders from another Bishop, due to a benefice. Furthermore, in the letters of the Bishop of Pientino, it was stated that Lawrence was not bound by any irregularity. This very assertion seemed to imply a testimony regarding his legitimate birth, which, if otherwise flawed, would have rendered Lawrence irregular. Regarding the age required for the sacred Orders, it could certainly be ascertained from elsewhere. Finally, the Bishop of Pientino testified that Lawrence was free from any canonical impediment, and also possessed good and honest morals, and that he had received all the Orders from the Bishop of Orense, as was explained in the Congregation's proceedings of January 26, 1732. It might be possible to prevent the danger of such fraud by including in the testimonial letters, which are given to those called by the Lord, a statement that the Bishop of the diocese requests that the testimony be referred to that declaration, so that the ecclesiastical recommendation of the person's life and morals,

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which is required, may be understood to support the reception of the Orders from another Bishop. However, it does not seem that this can be done without causing harm to the reputation of the ordaining Bishop and the ordained cleric, as they might suffer more from the suspicion aroused by such a declaration than they would benefit from the place given to such an excuse. The Holy Congregation, in Firmana, or Laurencana, on November 4, 1705, lib. 55, Decr. page 395, considered similar matters.

Therefore, the Most Eminent Lords decide:

"Regarding the III and IV questions, whether it is permissible or necessary to adhere to, or to depart from, the decisions of July 18th last, in the case etc."

The Holy Congregation, for the second time, deliberates on the matter.

[*Latin ed. p. 510*]

510 APPENDIX X. On that day, the 8th of August, 1733, responding to the question: "Whether a cleric who has accepted a benefice can obtain and peacefully possess it in a foreign diocese."

III. Regarding the third point, concerning a cleric who accepts a benefice and wishes to obtain and peacefully possess it in a foreign diocese, the following is decided: (1) He must submit the reasons for this. (2) He must consult with his own bishop, so that he may be ordained by the bishop of this diocese without a letter of dispensation from his own bishop.

From which the following are gathered:

I. Although ecclesiastical benefices exist, which, due to their particular nature, are not considered suitable for nuns from the diocese of origin, whether for the establishment of a title, a donation, etc.; nevertheless, it cannot be concluded that they are not suitable. Thus, a cleric who peacefully possesses one of these benefices must, according to the prescriptions of the canons of the Council of Trent and the Constitution of Innocent, in order to receive the sacred order, possess a benefice in the diocese of the Order.

II. For these matters are not governed by the same laws; since the acceptance of a benefice, by which one becomes subject to a foreign bishop, follows the laws established in the Constitution of Innocent XII, and the benefice follows the other canonical norms.

III. Furthermore, testimonial letters for the reception of orders, issued without a letter of dispensation, essentially differ from letters of dispensation, since letters of dispensation grant and express the faculty to receive orders, which testimonial letters do not.

[*Latin ed. p. 511*]

511. MARRIAGE. January 24, 1871. A summary of the facts. Caius had entered into betrothal with Lucy, but, before the marriage was contracted,

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due to the manifest impotence of Caius, as the witnesses testify, that betrothal was dissolved. Caius turned to other pursuits, and sought the hand of Julia; within three months, they entered into marriage. Neither were the parents of the girl able to dissuade them, despite anonymous letters sent to them which denounced Caius's notorious impotence; for these letters were shown to Caius, who rejected them as calumnies written out of envy. Thus, on January 8, 1864, Caius, who was twenty-two years old, and Julia, who was twenty-nine, were married according to the rites of the Church. The reason for this is one which does not permit of being publicly explained in detail. It is sufficient to know, from the entire process, that the man suffered from frigidity and every kind of impotence. I will only indicate the judicial procedure which was properly observed. For nearly two years, the spouses lived together, until the husband, causing the wife frequent distress, forced her to leave the house. Two years later, on January 17, 1868, Julia presented suppliant petitions to her Archbishop, requesting that he declare the marriage null, due to the husband's antecedent impotence, a cause for nullity, and that a process be conducted according to the Benedictine Constitution. The Archbishop entrusted the entire matter to his Vicar General, who, observing the order of law, opened the process and issued a final judgment: and so it happened. After the Vicar General notified Caius, the defendant, by summons, he did not respond, either in person or through a Procurator. And although he was duly notified, both at his domicile and through public edicts, up to the conclusion of the judgment, by the archiepiscopal court, he persevered constantly and stubbornly in his contumacy. Finally, after the judicial decree of the husband's contumacy was declared, on March 5, 1868, the judgment proceeded, and a dispute arose between the plaintiff, namely Julia, on the one hand, and the defender of the validity of the marriage, on the other.

[*Latin ed. p. 512*]

512. MARRIAGES. POPPO diligently pursued and completed all procedural actions in accordance with the aforementioned Constitution, by the mercy of God, and according to the Instruction of the Sacred Congregation issued on August 22, 1840 (1). This was not only with regard to those matters that are commonly relevant in many cases; but also with regard to those matters that are specifically prescribed or recommended in such matrimonial causes. Thus, nothing was left to be desired concerning the constitution, the oath, the presence of the Defender of the Marriage in every judicial act and in the examination of witnesses: likewise, the wife was duly examined, while the other spouse remained obstinately contumacious, and other witnesses were duly examined, both by the party and by the public prosecutor and the Defender of the Marriage. A thorough investigation was conducted concerning the veracity of the sworn judicial confession given by the complaining spouse, and concerning the credibility of the

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witnesses themselves. An examination of the body was held according to the procedures outlined in the aforementioned Instruction. With all these judicial acts duly completed, the Vicar General ordered that both the public prosecutor and the Defender of the validity of the marriage, as well as the lawyer for Julia, should present their conclusions in the case, and that Caius, the contumacious defendant, should also be summoned by edict. To this decree, no delay was observed, and on February 23, 1869, the parties complied and presented their conclusions. Furthermore, the Defender of the Marriage noted that the plaintiff had belatedly alleged, before the Court, the impotence of the husband, from which he considered it permissible to suspect that the impotence had not preceded the marriage, but had arisen subsequently; that the sworn depositions of two witnesses were contrary to the judicial deposition of Julia; that the proofs of virginity presented by expert judicial witnesses were of no importance, since the signs of virginity are fallible and uncertain, especially with regard to the hymen; that the witnesses presented did indeed testify about the public rumor concerning the husband's impotence, but that none of them clearly explained the cause of this knowledge, and that there remained a doubt regarding Caius's external physical conformation, which suggested the presence of virile potency; and finally, that the required three-year period, as prescribed in Chapter *Laudabilem*, concerning frigidity and malice, was lacking (2).

(1) You will find this Instruction explained in Volume I, page 439; and the Constitution in *De miseratione*, Immol./V, page 546 and following.

(2) Pope Celestine III wrote the following in the aforementioned chapter *Laudabilem*: "You have requested how much time should naturally be allowed to those who are frigid for the purpose of experimentation."

[*Latin ed. p. 513*]

MATRIMONY. 513 Concerning a petition for a pontifical dispensation regarding a marriage that was valid but not consummated, which Julia's advocate requested be presented to the Holy See by the Ordinary, the Defender of the Validity of the marriage declared that he found no reasons to oppose it, and indeed affirmed that the causes of aversion and hatred between the spouses and their families, which were sufficiently proven in the records, supported this petition. Conversely, Julia's advocate, enumerating the various stages of the present judgment, presented several facts and legal arguments, with which he maintained that it was abundantly clear of the husband's prior and perpetual impotence, as well as Julia's physical virginity; therefore, according to the procedures of the sacred canons, the marriage should be declared null by the Judge. Furthermore, since it was established that, although the marriage may have been valid, it had never been consummated, he observed that there was a place for an Apostolic dispensation, and he asserted that there were true, honest, and urgent motives, which were abundantly sufficient for granting a dispensation, accord-

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ing to the canonists. Therefore, the General Vicar, having reviewed all the judicial acts contained in the large volume, undertaking to individually examine and resolve five questions arising from the evidence, finally, on February 25, 1869, pronounced this definitive judgment: "In marriage (in which, if there is a defect, they are separated). We, in the present consultation, judge that from the time of the celebrated marriage, if coldness cannot be proven beforehand, they should cohabit for three years; after which time has elapsed, if they do not wish to continue cohabiting, and if, according to the Decree of Gregory, the woman can prove by just judgment that the man cannot lie with her, she may take another husband; but if he takes another wife, they shall be separated. If both consent to be together, the man may have her, even if not as a wife, at least as a sister. If, however, both confess that they have never known each other, with the seventh witness of relatives or neighbors of good reputation (if relatives are lacking), after having touched the sacred Gospels, each shall swear, according to the Acts, volume VI, section LXXI, that they have never been made one flesh through carnal intercourse, and then it seems that the woman is able to enter into a second marriage. "But if he takes another wife, then those who have sworn are held by the sin of perjury, and after having performed penance, they shall be compelled to return to their former marriage." This simple procedure, which was in force in the time of Celestine III at the end of the 12th century and before, gradually fell into disuse in subsequent centuries, and in our time, that three-year period has been abandoned by the court, as it is commonly said; and a somewhat more complex and lengthy method has been established, especially due to human malice.

[*Latin ed. p. 514*]

5i4. Regarding MARRIAGES:

1. The marriage of Julia N. with Caius N. is to be declared null and void, since it was never validly contracted, as we definitively pronounce in this judgment.

2. The defendant, being contumacious, is to be condemned to pay the judicial expenses, and all other damages resulting from the aforementioned situation of Julia N., without excluding the compensation due to the Advocate and Procurator, as we definitively condemn in this judgment.

From this judgment, the Fiscal Officer, and the Defender of the bond, by virtue of his office, in accordance with Constitution *Dei Miseratione* § 8, duly appealed to the Holy Apostolic See concerning the validity of the aforementioned marriage, due to the reasons for the Fiscal Officer's conclusions, which are set forth in writing. After the appeal was interposed, and all documents were transmitted to the Sacred Congregation, the woman made a petition to the Archbishop, requesting that at least a dispensation be granted. Then, after transmitting all documents to the Sacred Congregation, the Archbishop warned: "The Sacred Congregation, with its authority

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and wisdom, will judge the merits of the case and the propriety of the proceedings; and, for the sake of justice, it will either confirm or reject the judgment of my Court, and I implore it, as much as I can, to grant an Apostolic dispensation regarding the marriage that has been contracted but not consummated; for with this dispensation, the evils, damages, and even greater scandals that could violently disturb both families would be removed, and the woman would be spared from despair, who would neglect the salvation of her soul and her honor, besides the disturbance of the social order if she were to consider entering into other matrimonial unions."

Considering these matters, a decree had already been issued by the Sacred Congregation, which is to be placed on the cited page, along with the Defender of the bond by virtue of his office, when the Most Reverend Archbishop again sent letters, requesting that, considering the poverty of the woman, the case be handled, not according to the order of law by Procurators and Advocates, but economically. After this matter was presented to the Most Holy Father, and considering the particular circumstances, the Most Holy Father approved, after the prior opinion of a Theologian and Canonist, and after the observations of the Defender by virtue of his office, as is customary in cases that are said to be handled economically. Both the Canonist and the Theologian, without hesitation, agreed in their opinion, that the marriage is null due to the husband's antecedent and perpetual impotence, so that it is not necessary...

[*Latin ed. p. 515*]

MATRIMONIES. 515 Concerning the Apostolic dispensation regarding a marriage that is valid but not consummated: and therefore, they were of the opinion that the judgment of the Tribunal should be confirmed. However, if, for caution's sake, this Apostolic dispensation were to be requested, they also demonstrated that there were valid reasons for the dispensation in the matter; especially the impotence of the man, which, if it had not been present before the marriage with Julia, or if it were not sufficiently demonstrated to be perpetual, would nevertheless be a reason for the dispensation; to which were added enmities, antipathies, etc. The canonist, who most carefully examines all things according to the norms of law, reached these conclusions, writing as follows: "From all of these testimonies, confirmed by the religious oaths of the witnesses, it becomes most clearly evident: 1. That Caius suffers from impotence; 2. That this impotence is entirely certain, not doubtful; 3. That it was present before the marriage with Julia; 4. That it is absolute, not relative; 5. That it is organic, or of natural origin, not due to an accidental cause; 6. And finally, that it possesses such characteristics that it can safely be judged to be perpetual." The theologian, in his writing, proposed a difficulty to himself, which pertains partly to the process and partly to the merit of the cause: he said, "The testimony of

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the seventh witness on the part of the man seems to be omitted." However, he immediately resolved this difficulty, noting that the physicians and surgeons who were treating Caius' family and Caius himself had been duly examined. Furthermore, he noted that, according to the law, the testimony of the seventh witness on the part of the man was not necessary, citing the authority of Reiffenstuel, book 4, Decret, title 15, number 51, who states: "It should also be noted that if one party denies, the other party, the spouse, affirms perpetual impotence, and the matter is also proven, then the fourteen witnesses, or seven from each side, are not required; but seven from the side affirming are sufficient; Sánchez, book 7, dispute 109, number 13, chapter Proposuisti 4 de probat(1)." Finally, the theologian noted that there were nineteen witnesses who had been legally examined in the matter. (1) The interpreters of the sacred canons have written extensively and with great appreciation about the old method of treating such cases, where the assistance of those called "seventh witnesses" was used to aid in judgment; but in the present case, the discipline of seven witnesses from each side was observed, such witnesses being relatives or neighbors, whose testimony is universally considered to be the "seventh witness."

[*Latin ed. p. 516*]

516 MARRIAGES! The Defender, writing ex officio in response to Julia's insistence, and most strongly upholding the validity of the marriage, presented evidence refuting the obstetric testimony, citing the opinions of those authors who teach that the signs of virginity are very uncertain; indeed, that no certain signs of such a nature exist. Furthermore, with this premise established, he ridiculed the obstetric testimony, which in court proceedings is often readily accepted, and which those who give it claim to be able to recognize the signs of virginity with a single glance, without any hesitation; and who, with the same ease, had testified to Julia's perfect virginity. The Defender sought to undermine the testimony of the physicians, stating that their judgment had been entirely influenced by the unreliable testimony of the obstetricians. Moreover, he pointed out that Caius, whether because of his obstinacy or because he was ignorant of the matters concerning his marriage, had not been subjected to an examination by expert physicians to ascertain his impotence; and therefore, he concluded, the nullity of the marriage could not be proclaimed, for it is not a matter in which judgment is passed solely against the person of the man, but against the very cause of a valid marriage; for no one can undo what God has joined together. Moreover, because the testimony of the seventh witness from the husband's side had not been heard. After these points, the Defender sought to undermine the depositions of the witnesses, arguing that some should not be heard because they had not blushed to confess their own shame in court, or because he alleged that they were bribed, or because they testified to things that were improbable, false, and contra-

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dictory, as he claimed. With these and many other arguments presented in abundance, the proposed doubts were to be resolved. I. "Whether the judgment of the Court (N) should be confirmed or rejected" in this case, is to be determined by the Holy Congregation; but whether it is necessary to universally consider the testimony of the seventh witness, that is, to require the Holy Congregation to demand absolutely seven witnesses from one side, either relatives or neighbors or friends, and seven from the other side, without distinguishing, as interpreters suggest, when it is sufficient to have those witnesses from only one side, who are presumed to know the matter better.

[*Latin ed. p. 517*]

MARRIAGES. 5 f7 *> And, to the extent that it pertains negatively to the first part, and affirmatively to the second part: II. Whether it is necessary to consult with the Most Holy Congregation regarding a dispensation from a marriage that is valid but not consummated in this case.

RESOLUTION. The Holy Congregation, having knowledge of the matter in the deliberations held on January 24, 1871, decided to respond as follows: Regarding I. It is forbidden for a man to enter into other marriages, without the consultation of the Holy Congregation, in order to confirm the judgment. Regarding II. Provision. After this resolution, the Defender of the Marriage requested a new hearing, so that the matter could be debated again regarding both formulas of the doubts: this was notified to both spouses; for the man had appointed his advocate before the Holy Congregation, and a deadline was set for him to defend his rights. However, nothing was presented by them, either before the Tribunal or before the Holy Congregation. This was communicated to the advocate appointed by the man; but neither verbally nor in writing did he say anything: and all others maintained complete silence. Therefore, by virtue of office, the case was reopened in the deliberations held on March 24, 1871, with the dissenting vote of another theologian and with other observations from the Defender of the Marriage: and, the case being again discussed, regarding the customary formulas of the doubts: I. Whether one should adhere to or depart from the decisions made in the first doubt in this case: II. Whether one should adhere to or depart from the decisions made in the second case: The Holy Congregation responded: Regarding I and II, adhere to the decisions.

FROM WHICH, ONE MAY GATHER: I. That a marriage contracted by one who is absolutely impotent by nature to consummate the marriage is, by its very nature, null. II. Therefore, if such impotence is clearly demonstrated in the external forum, it is not necessary for a Pontifical dispensation to intervene, by which the marriage that is valid but not consummated is dissolved: for it was never valid that which was null from the beginning. III. However, in order that such natural impotence, which impedes marriage,

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be established, it must be shown that it existed before the marriage, not after; and that it is absolute, which cannot be overcome by any human remedy.

[*Latin ed. p. 518*]

518. MARRIAGES. IV. Furthermore, the obstinacy of a virile impotent man, who avoids judgment, is already considered, according to the law, by the Defender of the Marriage, who, in fulfilling his office of upholding the validity of the marriage, by denying the virile impotence of the man, upholds the marriage itself. V. It is not necessary to demonstrate impotence with a three-year trial, which was customary in the old law (and which seems to have fallen into disuse in such cases), when safer means are available for rendering such judgments. VI. Such safer means are the depositions of the spouse affirming the other's impotence, confirmed by appropriate testimonies, and the judgment of Experts and midwives after a properly performed medical examination. VII. Once a judgment of impotence is issued, the Holy Congregation usually forbids the impotent party from contracting new marriages unless granted permission by the same Holy Congregation (1). (1) Compare the case that I presented in M. IV, page 498, in which an example is given of this type of permission being granted. This prohibition against contracting marriage to the impotent party does not, of itself, constitute a diriment impediment, but merely an impediment: that is to say, as long as this prohibition remains in effect, the Ordinary cannot grant a dispensation for freedom of status, nor can the Parish Priest assist in the marriage, nor can the party who is forbidden, even from this head, legally contract a clandestine marriage: however, if he were to do so, the marriage would be valid, provided that he was not otherwise bound. I said "provided that he was not otherwise bound"; for example, if we were to consider the case of Caius, about whom judgment has been rendered in the present case, the marriage would be null, either because he suffers from absolute impotence, or if, after having been married to another wife, it should turn out that he is potent, he would be obliged to return to his first wife: for the marriage has been declared null by reason of the aforementioned impotence, and if this impotence were truly absent, since no dispensation has been granted for the first marriage, which is valid but not consummated, Caius would be obliged to return to his first wife, with whom the marriage still subsists. These matters would require a new judgment from the Holy Congregation. This case could occur, although it is more speculative than practical: suppose Caius were to marry another woman, and it should be shown that he is potent: according to what has been said, this second marriage would be null, and the first would be valid. 1° Could the Roman Pontiff dispense with the first marriage, which is valid but not consummated? 2° And if a dispensation were granted for the first marriage, would the second marriage then become valid by law? The an-

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swer is easy to both questions: 1° The Roman Pontiff could dispense; 2° It would be necessary to heal the root, according to what I wrote in Vol. I, page 482 and following, or to celebrate the marriage again.

[*Latin ed. p. 519*]

519. CONJUGAL AFFAIRS. On April 29, 1871, a summary of the case was presented. Joseph, having long cherished a love for the young woman Concepta, finally consummated their union; and he acknowledged the resulting child as his own, raising it with paternal care. Subsequently, eager to enter into marriage with another woman, Concepta, upon learning of this, presented an impediment to the Church authorities, declaring that nothing should proceed. Joseph, in order to be freed from this bond, which prevented him from obtaining a certificate from the Church attesting to his freedom to marry, summoned Concepta before the court, in order that the impediment she had raised might be examined. Thus, a legal proceeding was initiated, and an examination of the facts was conducted, in which witnesses were presented both by Concepta to prove the validity of the future marriage, and by Joseph to deny it. Many of these witnesses, brought forward by the woman, testified to nothing explicit regarding a promise or a reciprocal promise of marriage, although they testified to the affections and familiarity between the man and Concepta, as well as to the rape and the subsequent birth, to the man's acknowledgment of the child, to the instructions received regarding the dowry, and finally, to the woman's good reputation: regarding which, the parish priest had already provided a strong testimony. However, two witnesses testified to a promise and a reciprocal promise: one testified: "Two years ago, while I was in the workshop which Concepta's father owns, Joseph was present with Concepta, and during their conversations, he promised to marry her, and in turn, Concepta reciprocated the promise of marriage." And the same witness added: "Both before and after the rape, Joseph, while in the aforementioned workshop with Concepta, repeatedly promised her that he would marry her, and in response, Concepta stated that she would marry no one but Joseph." Finally, the same witness added: "I know that Joseph promised marriage to the young woman before he defiled her, and also after the defilement, because Joseph himself told me, both before and after the rape, that he absolutely intended to marry her." Another witness testified: "Joseph repeatedly told me that he intended to marry Concepta; but her mother refused to consent if the dowry..."

[*Latin ed. p. 520*]

520. CONCERNING MARRIAGE. To the woman, seven hundred crowns were not to be given; and that woman, unless Joseph had proven her to be unchaste, as he had indicated to me that he would do, could not be taken as a wife. To all of this, Joseph opposed, denying the testimony of

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the witnesses, and especially those whom I have just mentioned, whom he declared to be unreliable, not trustworthy, and in no way worthy of belief. After the testimonies of the witnesses had been considered by the Court, on June 6, 1868, a judgment was issued, in which the aforementioned impediment was confirmed. After these events, the case remained silent for a long time, and in the meantime, it appears that the man offered the sum of seven hundred crowns to the woman, in order that she might yield to his will or cause him distress; but since she refused, on June 30, 1869, that is, one year later, Joseph appealed to the Sacred Congregation, indicating that he was appealing the judgment, and without transferring the records of the case. When asked for information and a vote, and to report on the rights of the petitioner, among other things, the Archbishop noted that the appeal had been made more than one year and twenty-four days after the judgment had been issued. With these things in mind, a Decree concerning procedure was issued: Let it be noted on the record that the appeal has expired, and let this be notified to the Most Reverend Archbishop, who presides over the proceedings, so that he may grant the parties a suitable time to present their rights before the Sacred Congregation, and to inform the Congregation of the results. Upon knowledge of this Decree, Joseph's Defender presented petitions, requesting that the case also be considered on its merits. And a Decree was issued, which is usually expressed in a single word, and is joined: by this Decree, it is indicated that the petitions should be joined to the case, so that consideration may also be given to these matters. Therefore, the case was presented under the following formulas of doubt. Discussion concerning the matter. Joseph's Defender, with regard to the first doubt, maintained that the right to appeal still remained to Joseph, because the time for appealing should not be calculated from the date of the judgment, but from the date on which the judgment was notified to the party who had been adversely affected in the judgment, according to the procedures of the Code of Gregory XVI, § 969. DEFENSE OF JOSEPH.

[*Latin ed. p. 521*]

SPONSALIUM 521. "It has already been established that the sentence issued by the Tribunal has not been notified to Joseph!" Therefore, Joseph still has the right to appeal the sentence. Regarding the second doubt, concerning the merits of the case, the Advocate pointed out that, according to the law, the existence of betrothal must be proven not by mere indications, but by valid arguments, because the matter at hand involves restricting the natural freedom of a person by imposing a grave and perpetual bond of marriage; therefore, the contract of betrothal cannot be declared to exist unless the promise and the reciprocal promise are so clearly evident that they admit of no doubt. These points are frequently cited in similar cases discussed before the Sacred Congregation. Indeed, the Advocate maintained that in this case, no evidence whatsoever was presented to prove the exis-

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tence of betrothal, both because there was no testimony to that effect, and because the girl, inflamed by lust, had seduced and enticed a man to have relations with her. Joseph claimed that he had been seduced by the woman, secretly and at night, in her house, while her brothers were asleep, and that the door of her house had been opened to him by the woman herself. The Advocate further argued that the existence of betrothal should be even more clearly excluded, because the woman, having left her father's house, gave birth to a child elsewhere, and refused to return to her own home, even though Joseph repeatedly urged her to do so, and even though the woman's brother had agreed to it; from these circumstances, the Advocate argued, it was clear that the woman did not refuse to return to her home out of fear of her father or brothers, but out of a licentious way of life. In addition to this, two witnesses testified that Joseph had kissed her repeatedly; and that, in a public workshop, Joseph had been seen jesting amorously with the woman, kissing her. Therefore, when dealing with a woman of this kind, who has even insulted the man himself, nothing should stand in the way of denying the existence of betrothal, nor of considering it an impediment. However, the Advocate admitted that, sometimes, the existence of betrothal can be presumed, even if there is no proof of an explicit promise or reciprocal promise, but he pointed out that, for such a presumption to be valid, the following three things must concur: 1. There must be a clear and free expression of the intention to enter into a future marriage by the man; 2. There must have been a carnal union; 3. There must be manifest honesty on the part of the woman.

[*Latin ed. p. 522*]

522. CONCERNING MARRIAGES. The woman, who had never suffered such dishonor, unless under the bond of marriage. Indeed, the Advocate maintained that certain elements were lacking in the case: first, that it could not be proven by witnesses that a true and free promise of future marriage had been expressed by the man; for he rejected the two witnesses presented by the woman, who seemed to testify to this, as unreliable and uncorroborated, nay, as men hostile, thieves, and slanderers. Second, that no one, from his own knowledge, confessed that Joseph was the author of the rape. Third, that, as he demonstrated from the facts presented, namely, from the kisses received in a public place, and from the woman's absence from the house due to the illegitimate birth, there was doubt. Addressing the third point, the Advocate observed that, assuming the hypothesis, the case concerned marriage, rape, and the woman's honor, and that there was even room for dispensation, because the woman had offended the man with injuries and insults, so that she herself would not wish to enter into marriage with him: "I no longer wish you in my house; I do not wish you, because I must enter into marriage with another." Moreover, he pointed out that evils arise from forced marriages, according to the text in chapter 17,

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concerning Marriages, in which it is written about a woman who was reluctant: "Since marriages ought to be free, it is better to warn (the woman who, having sworn an oath, had promised marriage to the man), than to force her, because forced marriages often have unhappy consequences." These and other arguments were presented by Joseph's Defender. DEFENSE OF THE WOMAN. The woman did not have a Defender appointed by the Holy See, and therefore, as is customary, her defense was made ex officio. Regarding the first point, it was noted that, according to common canon law, the time for appealing is ten days from the notification of the sentence, and that, having uselessly elapsed, there is no longer any place for appeal, according to chapter 15 concerning Sentences, and the relevant passage, where it is written: "Since, after a space of ten days, the sentence passes into the authority of the judged matter, he who does not seek recourse to the aid of appeal within that time denies himself the right to appeal; and by this, it seems that he has accepted the validity of the given sentence." Also, in chapter 8 concerning Appeals, in paragraph 6. In the present case, however, more than ten days, but a year, had passed since the sentence was given by the Archbishop's Court.

[*Latin ed. p. 523*]

ON MARRIAGE. 523 Nor should you say, after examining the Gregorian Code, that a year must pass before the appeal is considered time-barred: for it has been observed that 1. the provisions of said civil code do not apply to this matter; moreover, in the same code, § 383 states: "Nothing shall be innovated with respect to the Sacred Congregations of the Church and the rules currently observed by the same." 2. Even if the faculty of appealing throughout the entire year were admitted, this year has already elapsed; therefore, the appeal is time-barred. Furthermore, the defect of notification of the sentence does not impede the process: for the purpose of this notification is that the party who is losing the case should know that an adverse sentence has been pronounced against them; but in this case, it could not have remained unknown, since both parties had their advocate present in court. Regarding the second doubt, the following is also noted ex officio. In order that a marriage may be declared certain in the external forum, it is necessary that the promise of one and the reciprocal promise of the other be demonstrated; and it is not sufficient to simply accept the promise, as Engel correctly states in *De Sponsal. et Matr.*, § 2, n. 2: "Indeed, it can sometimes happen that a promise is made by one party to the other purely gratuitously and without condition of reciprocal promise, as if a wealthy man were to promise marriage to a woman who is faithfully serving him during a serious illness, in consideration of her service; for he certainly has the power, either simply or under a condition, to obligate himself, provided that this intention is clear and the woman does not refuse, but at least tacitly accepts such a promise; however, this gratuitous promise will not

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have the force and effect of a marriage; therefore, if the woman, on her part, even after accepting the promise, does not wish to enter into marriage, she cannot be compelled to do so, because she only had the man obligated to her, but she herself, by lacking the reciprocal promise, was not obligated, as if she had accepted a purely gratuitous donation. Furthermore, such a promise will not give rise to an impediment to public decency, as would a marriage, so that if the woman to whom the promise was made dies, her sister cannot be married to the man who made the promise, nor, after the death of the woman, can the woman's brother be married to the man who made the promise. Indeed, such a promise and reciprocal promise must be so true and deliberate that they demonstrate a true and certain contract."

[*Latin ed. p. 524*]

524. OF BETROTHAL. This agreement, which is the prelude to marriage, as Reiffenst. on Betrothal, § i, no. 5, notes, derives its substance not from a specific formula of words, but from the reciprocal signification of wills, indicating consent. Indeed, this reciprocal signification of wills in the matter, even if not clearly expressed in words, seems to be amply confirmed by facts, which are more powerful than words. All the witnesses, as it were with one voice, testify to the long-standing and close familiarity between Joseph and Concepta; and therefore, given the woman's reputation for chastity, which all the witnesses unanimously affirm, this familiarity could not have been explained except by reference to a legitimate intention of marriage. This is all the more so because the act of defloration occurred, followed by pregnancy and a child. It cannot be presumed that a woman, otherwise chaste, would have willingly suffered such a loss of honor without hope and confidence in a future marriage, as Reiffenstuel on Betrothal and Marriage, § 5, no. 68; and in the Roman Rota, in the case of *Sponsalium* of January 26, 1731, before Bussio, where it is written: "It is established that Gaspard committed a rape upon Catherine. If, therefore, this gave her consent to the loss of her virginity, certainly by that very act, which is more powerful than words, she gave her promise, and it is presumed that she did so with the hope of a future marriage." This is frequently repeated in the drafting and preparation of similar cases that are presented to the Holy Congregation of the Council. Furthermore, it is established that Joseph was the author of the rape. This gains greater strength from the man's promise, which he himself openly declared after the rape, saying that he intended to take her as his wife; for such a declaration of intent by a man after the rape is often presented as evidence, and is understood to have preceded the rape, and to have validly signified to the honest girl that she should consent to the act. However, it seems that conjectures and presumptions, although valid, are not sufficient; since two witnesses testified to an explicit and repeated promise and counter-promise, as if dealing with a matter that was not in doubt. With these things established, it is observed that Joseph is

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bound by a double bond, one arising from the obligation of defloration and the subsequent child, and the damage thereby inflicted upon the woman.

[*Latin ed. p. 525*]

ON MARRIAGE BONDS. 525. One must be restored, the other strengthened, arising from the marriage bonds; therefore, in these cases, neither party can be granted the faculty of contracting marriage or of bestowing a dowry: but rather, it seems necessary to compel them to contract marriage, since they are bound to fulfill the faith given in the marriage bonds. Nor should the marriage bonds be dissolved by the authority of the Holy Father, because evils may result from forced marriages; for in such matters, as has been repeatedly ordered by the Holy Congregation, there is no place for coercion. After these considerations, the proposed questions are to be resolved. I. "Is there a place for an appeal in this case?" And the answer is negative. II. "Is the judgment of the Archdiocesan Court (N) to be confirmed or rejected in this case?" And the answer is affirmative regarding the first part, and negative regarding the second. III. "Is there a place for a dispensation in this case?" RESOLUTION. The Holy Congregation of Councils, after deliberations held on April 29, 1871, having considered the matter, decided to respond as follows. To I. This will be addressed in the second [question]. To II. The judgment is to be confirmed. To III. This is not proposed (1). FROM WHICH WE GATHER: I. The contract of marriage bonds, which is the prelude to marriage, and which consists of a serious and deliberate promise and reciprocal promise of future marriage, can be demonstrated not only by explicit words, but also by actions, which cannot be explained unless the promise and reciprocal promise of future marriage are assumed. II. Among such actions, which vary in each case, there is one that has also acquired legal value, namely, rape, by which an otherwise virtuous girl has suffered a grave loss of honor. (1) This response: "not proposed," means that the reason for which it should not be proposed is that the matter is not suitable for discussion; in the first case, it is reproposed in a new Congregation; in the second, it is not further proposed, unless it is for an accidental reason, such as when there is not enough time to discuss it, or because the person concerned does not urge it.

[*Latin ed. p. 526*]

526. ON MARRIAGE. III. Many events occurred in this matter which not only signified the impossibility of the marriage but also made it notorious. IV. In these circumstances, the perpetrator of the rape is not empowered to provide for the virgin who has been violated, nor to care for the child born, nor to take her as his wife; but he is bound to fulfill this second obligation. V. Finally, according to the established procedure of the sacred canons, the time for appealing is considered to have passed after the lapse of ten days from the pronouncement of the sentence (1); and after that time has

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elapsed, the appeal is deemed to be forfeited.

CONCERNING THE APPLICATION OF THE SECOND MASS.

April 29, 1871.

SUMMARY OF PRAYERS.

The Bishop N from Hispania submitted these prayers to the Most Holy Father through the Sacred Congregation of the Council.

"The Sacred Congregation of the Council, by Decree of September 25, 1858, declared that it is not permissible for a priest who says two Masses on the same day to receive alms or a stipend for the second Mass."

This declaration moved my predecessor N to propose the following questions to the same Congregation:

I. Whether a parish priest, in order to fulfill the intentions of the founders, who on Sundays and feast days say two Masses (having obtained permission) and who, for the benefit of the founders of the Primissaries (which are often lacking in resources and care for the priest due to the scarcity of income), apply to the Primissaries, can receive a salary from the fund of the Primissaries for this particular work?

II. Whether a parish priest, who, due to circumstances, celebrates two Masses on Sundays and feast days, and who, at the same time, imparts Christian instruction, can receive a certain annual salary offered by the parishioners for this particular work and industry?

On March 23, 1861, the Sacred Congregation decided to respond:

"It is permissible, at the prudent discretion of the Bishop, to grant some remuneration."

(See the notes on the matter of Tithes in Volume III, page %t9.)

[*Latin ed. p. 527*]

CONCERNING THE APPLICATION OF THE SECOND MASS. 527 "Considering the labor and inconvenience involved, excluding any alms whatsoever" for the application of the Mass. "Regarding the second doubt, this declaration seems to provide a sufficiently clear answer; concerning the first, it may be inquired whether it is permissible for pastors to apply a second Mass, and to receive the entire, albeit meager, revenues from the *Primissaria* for the application, both for the sake of the labor and inconvenience (especially for the preaching of the divine word), without being obligated to apply said Mass, founded by the founders, on a weekday for the benefit of the founders; whether the revenues from the founded *Primissaria* are consistent with a manual labor or alms, as excluded in the aforementioned Decree, and therefore whether the second Mass should be applied on another day for the benefit of the founders. "Since the meager

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revenues from such foundations are, in many places, far from sufficient to compensate for both the particular labors and to pay the stipend for the second Mass to be applied on another day; priests in these regions are often so poor that they cannot afford to apply the weekly Mass gratuitously, nor can the inhabitants themselves contribute as much as is necessary, therefore, I humbly and earnestly beseech Your Holiness to deign to grant, for the diocese of N, that priests who have the faculty of saying two Masses may enjoy peace, applying the revenues from the *Primissaria* for the benefit of the founders while saying the second Mass. "This from the Bishop. What these so-called *Primissaria* are, is understood from other requests which the predecessor Bishop had presented, and which I have explained in Vol. I, page 13; they are benefices, both simple and endowed, for which provision is made that, in addition to certain weekdays, Holy Mass be celebrated on Sundays and feast days. Since, as is stated in the Rescript of the Holy Congregation of May 23, 1861, some remuneration was indeed left to the prudent judgment of the Bishop for those celebrating the second Mass for the sake of labor and inconvenience, which labor and inconvenience were described in the requests presented in the year 1861, as can be seen from the aforementioned passage; however, any alms for the application of the Mass were excluded, therefore, priests celebrating the second Mass were not obligated to apply it for the benefit of the founders of the *Primissaria* from which they received anything, but received, at the prudent judgment of the Bishop, only for the sake of the external labor and inconvenience involved; thus.

[*Latin ed. p. 528*]

528. CONCERNING the application, it so happened that the application for the founders was to be made the following day, because the will of the founders only mandated the execution of this, namely, through the celebration of Mass on Sundays, but since the priests were not obliged to apply it, the burden of the application still remained. Therefore, having established these things, which are derived from the present requests of Bishop N, together with those presented by his predecessor, as cited in the aforementioned place, it clearly appears in what the difficulty consisted, namely, that those who celebrated the second Mass would retain all the fruits of the first Mass, which was applied for the founders. Indeed, it was an obstacle that the Holy Congregation of the Council had repeatedly declared that it was not permissible for the one celebrating the second Mass to receive alms for the second simple celebration. Therefore, having considered the Rescript: that it could be permitted, at the prudent discretion of the Bishop, some remuneration, considering the labor and inconvenience involved, apart from any alms for the application of the Mass, and with this Rescript applied to the aforementioned primary foundations, it was observed that three hypotheses could arise by law: namely, that after de-

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ducting the sum for remuneration assigned by the Bishop, either there would still remain only as much as equals the tax for manual alms; or that there would remain something more, which, however, did not reach the amount of manual alms; or that the whole would be completely absorbed by said remuneration. In the first hypothesis, it would be necessary to transfer the application to another day, to which transfer, since it would be contrary to the will of the founder, it would be necessary to have Apostolic authority. In the second hypothesis, it would be necessary to resort to Apostolic authority to reduce the number of Masses and to transfer them. In the third hypothesis, it would be necessary to consider what would be more expedient, whether to suppress the application of the Masses, which, however, could not be permitted, given other means; or to reduce other burdens. Finally, it was observed that, in the powers customarily granted to the Holy Congregation of the Council by the Roman Pontiff, there was also the power to reduce Masses and to transfer them to other dioceses, churches, and altars; indeed, it was granted to delegate this power to sacred ministers for three years. Therefore, if Bishop N were endowed with these powers, it would be necessary to consider whether he could use the same power in this matter.

[*Latin ed. p. 529*]

SECOND MASS. 529 Furthermore, the Bishop should inquire, so that, considering the smallness of the revenues of the parish and the poverty of the parishioners, the priests who travel to offer Mass may be allowed to enjoy peace, being supported by the revenues of the Primatial See. DECREE. The Sacred Congregation of the Council, after considering the Bishop's requests presented at the meetings on April 29, 1871, decided to respond as follows: As has been explained, and in particular cases, recourse may be made for the transfer and reduction of Masses to the extent that it is necessary. FROM WHICH THE FOLLOWING MAY BE GATHERED: I. It is forbidden to accept alms for a second Mass from those who are obligated to offer Mass. II. Because of the external labor and inconvenience sometimes involved in the celebration of Mass, it may be permitted for them to receive some remuneration, at the prudent discretion of the Ordinary. III. If such remuneration is received from the revenues of a chaplaincy, it is not to be understood as received for the simple celebration or application of the Mass. IV. Therefore, those who receive revenues from a chaplaincy due to the external labor and inconvenience that accompany the celebration of a second Mass, may freely apply this second Mass for those they wish, without receiving any alms. V. Consequently, the obligation to provide for the application of Masses, which the chaplaincy requires, remains with those to whom it pertains, even if the Mass is not applied and revenues

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are received from the chaplaincy. Act. vol. VI. p. 31.

[*Latin ed. p. 530*]

H3Ò EX 8. AND THE HOLY CONGREGATION OF ROME, CONCERNED WITH THE PRIVILEGE GRANTED TO THE ILLUSTRIOUS BASILICA OF THE VIRGIN AND MARTYR AGNES, LOCATED WITHIN THE WALLS OF THE CITY: "Since the devotion of the faithful towards the Holy Agnes, Virgin and Martyr, has not been a little increased after the Most Holy Pope Pius IX, on the eve of the Ides of April of the year 1855, was delivered from a very grave danger through the most present help of the Virgin Mary and of the aforementioned Saint Agnes, and since, after such a miracle, more frequently Priests, both secular and regular, come to the Basilica dedicated to the same Virgin and Martyr, located outside the walls of the City, to celebrate Mass at the altar where her body rests; the Reverend Father D. Alphonsus Lalli, Regular Canon of the Lateran Palace, and holding the office of parish priest in the aforementioned Basilica, complying with the wishes of the aforementioned Priests, humbly requested the same Most Holy Pope, so that it might be permitted to celebrate the Mass proper of Saint Agnes even when a double rite occurs. Furthermore, His Holiness, upon the advice of the undersigned Secretary of the Congregation of Holy Rites, having considered the explanations presented concerning a special grace not to be imitated, granted, so that Priests, both secular and regular, may, if they wish, celebrate the proper Mass at the aforementioned altar, as in the Roman Missal, on the twelfth day before the Kalends of February, that is, on the days within the Octave of the Nativity of Saint Agnes, under a lesser double rite; on other days of the year, according to the customary practice; always, however, except for the doubles of the first and second class, on Sundays and on holy days to be observed, on weekdays, vigils, and privileged Octaves. Contrary provisions notwithstanding."

February 1, 1872.

Place 98.

Signed:

C. Episcopus Ostien. et Velitern.

Card. PATRIZI S. R. C.

Praef.

D- BARTOLINI S. R. C.

Secretarius.

[*Latin ed. p. 531*]

OF THE PRIVILEGE OF THE BASILICA OF ST. AGNES 531. This concerns a special privilege granted to the most ancient Basilica, which safe-

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guards the remains of that noble Roman girl, who, having crowned her virginity with a most illustrious martyrdom, was celebrated with the greatest distinction throughout the Catholic world, according to the rites of the early centuries of the Church, and which, in our time, both in Rome and throughout the Church, has powerfully renewed her memory through a famous miracle. The parish priest of the same Basilica, having obtained the aforementioned Decree, deemed it his duty to add a NOTICE to the same Decree, in accordance with the sacred rites, which will be useful for those who, visiting the Basilica, wish to avail themselves of this privilege. Thus it is: NOTICE. In our Basilica of St. Agnes V.M., outside the city walls, by Indult of the Holy Roman Church of February 1, 1872, any Priest, whether secular or regular, may celebrate a proper Mass in the altar of the aforementioned St. Agnes, dedicated to the same Saint, within her Octave under a double rite; on other days of the year, according to the votive manner, in a lesser or greater double rite, but not in the doubles of the first or second class, on Sundays, on holy days to be observed, on the vigils of the Nativity and Epiphany of the Lord, and of Pentecost, on the Feria of Ash Wednesday, throughout the entire major week, and within the Octaves of the Nativity and Epiphany of the Lord, of Easter, of Pentecost, and of the Most Holy Body of Christ. This Mass is celebrated on her feast day, January 21st, and with sacred vestments of the color red. Within the Octave of her Nativity, with the "Gloria," the "Credo," the second prayer of the Office of that day, and also the third prayer, if, by chance, any Commemoration occurs. On other days of the year, in the first prayer of the Mass, where the solemnities are celebrated, we say, "we celebrate the commemoration" without the "Gloria" and without the "Credo," with the second and third prayer, namely: the second prayer is from the Office of that day, and the third is the Commemoration itself that occurs; and if in the Office there are two or three Commemorations, they also are to be said in the third, fourth, and fifth place, in that order. If, however, no Commemoration occurs, the third prayer is that which is to be said in the second place in the Semiduples, according to the time.

[*Latin ed. p. 532*]

It is decreed. However, if the third Collect is "A cunctis," then either the name of St. Agnes must be omitted, or the first Collect, "Concede quaesumus omnipotens Deus," must be substituted in its place (1). Collects are always said. During the Paschal season, two "Alleluia" are added at the end of the Introit, before the Psalm, and at the end of the Offertory and the Communion, one "Alleluia" is said, and after the Epistle, in place of the Gradual, two verses with four "Alleluia" are said, taken from the Mass "Loquebar de Communi Virginum." The Preface is either for the season, or for the occurring Octave, otherwise it is the common Preface, even if it is proper for the Mass of that day. Within the Octave of the Ascension of the

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Lord, the "Communicantes" of that solemnity is also said. At the end of the Mass, the votive prayers "Benedicamus Domino" are said. The Gospel of St. John is always said at the end of the Mass. The conventual Mass is that of the Office of that day. The Roman, or January, Mass is for the canonization of the Blessed John Baptist de Rubels, Confessor, of the Collegiate Basilica of St. Mary in Cosmedin.

DECREE: "Since it is necessary in the Ordinary Congregation of Sacred Rites to consider the validity of the process, established by Apostolic authority, based on new miracles which are reported to have been wrought by God the Most High through the intercession of the aforementioned Blessed John Baptist de Rubels, the undersigned Cardinal, Prefect of the aforementioned Sacred Congregation and Promoter of this Cause, at the urging of the Reverend Father James Arrighi, Postulator of the aforementioned Cause, proposed the following question at the Ordinary Meetings of the Sacred Rites today in the Vatican (1):

If a commemoration does not occur, in the votive Mass, the third Collect is:

* In Advent: "Deus qui beatae Mariae virginis utero..."

* From the Circumcision of the Lord until the Purification of the B.V.M.: "Deus qui salutis..."

* From the Purification of the B.V.M. until the Lord's Passion: "A cunctis," omitting the name of St. Agnes, or "Concede quaesumus omnipotens Deus..."

* From the Lord's Passion until the Lord's Palm Sunday: "Ecclesiae tuae vel Deus omnium fidelium..."

* From the Octave of Easter until Pentecost: "Concede nos famulos..."

* From the Octave of Pentecost until Advent: "A cunctis," omitting the name of St. Agnes, or "Concede quaesumus omnipotens Deus..."

Since in our Basilica, within the Octaves, with no exceptions, the Office is always for some Saint, in the votive Mass, the second Collect is for the Office of that day, and the third is for the Octave.

[*Latin ed. p. 533*]

DECREE 533 concerning witnesses – Whether it is established that the process instituted by Apostolic authority in Rome, based on the new miracles of the aforementioned Blessed, is valid; whether the witnesses have been examined properly and correctly in the case, and to the effect of what is being considered? – After further and thorough deliberation, and after having heard the Reverend Father D. Peter Minetti, Promoter of the Holy Faith, the Eminent and Reverend Fathers entrusted with safeguarding the sacred rites, having considered everything carefully, have responded: Affirmative. On March 2, 1872. Subsequently, the aforementioned facts were reported faithfully to the Most Holy Lord, our Pope Pius IX, by the under-

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signed Secretary, and His Holiness approved and confirmed the judgment of the Sacred Congregation. On the 7th of the same month and year. » C. Ep. Ostien. et Velitern. Cardinal PATRIZI, S. R. C., Prefect. D. Bartolini, S. R. C., Secretary. Decree concerning the canonization of the Blessed Bernardine of Feltre, of the Order of Friars Minor of the Observance of Saint Francis, of Feltre. "After a prior Apostolic dispensation granted on April 7, 1870, a doubt concerning the virtues of the Blessed Bernardine of Feltre, a professed priest of the Order of Friars Minor of the Observance of Saint Francis, was discussed, before proceeding with the matter in the Ordinary Session of the Sacred Congregation of Rites, but with the intervention and vote of the Consultors, by the Eminent and Reverend Cardinal Hannibal Capalti, Relator of the same cause, and in response to the humble prayers of the Reverend Father Fr. Vincent of Jennis, a professed priest of the Order of Friars Minor of the Observance of Saint Francis, Reformer, and Postulator of the cause, the following doubt was proposed at the Ordinary Sessions of the same Sacred Congregation held at the Vatican: – Whether it is established that the theological virtues of Faith, Hope, and Charity in God and in neighbor, as well as the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and those virtues joined to them, are present in a heroic degree in the case, so that it may be possible to proceed to the examination of the four miracles? – After all expenses and considerations were made, and after...

[*Latin ed. p. 534*]

534 A DECREE: The same matter having been brought forward, both the Consultors and the Eminent and Reverend Fathers Cardinals entrusted with the preservation of the Sacred Rites, having considered the matter proposed by Dapio, responded: "Affirmative." On January 30, 1872. "And after I, the undersigned Secretary, had faithfully reported this to His Holiness, our most holy Pope Pius IX, His Holiness graciously approved, and deigned to ratify and confirm the judgment of the Sacred Congregation on February 1st of the same year." C. Episc. Ostia and Veliterna. CARD. PATRIZI, S. R. C., Prefect. Dominicus Bartolini, S. R. C., Secretary. Concerning the Beatification and Canonization of the Venerable Servant of God, Sister Mary William Emilia de Rodat, foundress of the Congregation of Sisters called the Sisters of the Sacred Family. A DECREE. "On the eleventh day before the Kalends of December in the year 1867, when His Holiness, our most holy Pope Pius IX, graciously approved that the case of the aforementioned Servant of God, Mary William Emilia de Rodat, be considered in an Ordinary Congregation of the Sacred Rites without the intervention and vote of the Consultors, although less than ten years had elapsed since the presentation of the Ordinary Process in the Acts of the Sacred Rites Congregation, the Eminent and Reverend Cardinal Charles Sacconi, promoter of this cause, at the request of the Reverend Lord Canon Gustav Gallot,

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Honorary Chamberlain to His Holiness, our most holy Pope Pius IX, and Postulator of this cause, having considered the petitions of several men of illustrious ecclesiastical dignity, and in Ordinary Congregations of the Sacred Rites held today in Vatican, proposed the following question to be discussed, namely: Whether the Commission for the Introduction of this cause should be signed in this case and for the purpose in question?" And the Sacred Congregation itself, having carefully considered all matters, and having heard the opinion of the Reverend Father Dominic Minetti, Promoter of the Holy Faith, decided to respond: "Affirmative, that is to say, the Commission should be signed, if it pleases His Holiness." March 2, 1872.

[*Latin ed. p. 535*]

DECREE 535: "Afterward, concerning the aforementioned matters, a faithful report was made to the Most Holy Pope Pius IX by the undersigned Secretary of the Congregation of Sacred Rites. His Holiness approved and confirmed the judgment of the Sacred Congregation, and with his own hand signed the commission for the introduction of the cause of the Venerable Servant of God, Mary Guilelma Emilia de Rodat, as mentioned above. On the 7th day of the same month and year."

"C. Episc. Ostien. et Velitern. Card. PATRIZI, S.R.C., Prefect. Loco ffa Sigilli. D. Bartolini, S.R.C., Secretary. Concerning the beatification and canonization of the Venerable Servant of God, Benedicta Bencurel, of the Third Order of St. Dominic."

DECREE: "Now, at the present time, the Most Reverend Father, Brother Alexander Vincent Lande, Master General of the Order of Preachers, and Promoter of this cause, and the Eminent and Reverend Cardinal Lucian Bonaparte, Proponent of this cause, proposed the following question during the ordinary meetings of the Sacred Rites, held today at the Vatican: 'Whether the judgment of the Bishop of Vapincensis concerning the cult of the aforementioned Venerable Servant of God, or concerning obedience to the decrees of His Holiness Urban VIII, should be confirmed in this case and to the effect of which we are speaking?' Furthermore, after the Eminent and Reverend Fathers, entrusted with the preservation of the Sacred Rites, having carefully considered everything, both orally and in writing, and after hearing the Reverend Father, Dom Peter Minetti, Promoter of the Holy Faith, they judged – Affirmative, that is, the judgment should be confirmed. On March 2, 1872."

"Afterward, concerning the aforementioned matters, a faithful report was made to the Most Holy Pope Pius IX by the undersigned Secretary of the Congregation of Sacred Rites. His Holiness deigned to approve and confirm the rescript of the Sacred Congregation in all respects. On the 7th day of the same month and year."

"C. Episc. Ostien. et Velitern. Card. PATRIZI, S.R.C., Prefect. Loco Sigilli.

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Dominicus Bartolini, S.R.C., Secretary."

[*Latin ed. p. 536*]

836 APPENDIX X I . ON THE NATURE OF CONCORDATS. We have received with pleasure a Gallic treatise, entitled "On the expertise and religion," which we commend and present to your view, having been written by the noble Mauritius de Bonald, who, holding the office of civil judge, wrote it in Gallus and published it in the year 1871, explaining the nature and particular character of these agreements or indulgences, from which questions can easily be resolved. We congratulate the Catholic "ephemerides lauda" and we commend to you and your work all that is worthy, so that, as those who blaspheme may, at length, learn, that the tenor of the Church is as follows.

TO THE NOBLE AND BELOVED SON, MAURITIUS DE BONALD,

PIUS PP. IX.

Beloved son, noble man, we impart to you, with all our heart, the Apostolic Blessing.

Receive our Apostolic Blessing.

Given at Rome, near St. Peter's, on the 19th of June, in the year 1871, during the sixth year of Our Pontificate.

Your work, beloved son, noble man, entitled "Deux questions sur le Concordat de 4804," we have gladly received, as also "Deux questions sur le concordat."

(1) That pure soul, which informed Van-Espen, a man now deceased, who in his work "Jus ecclesiastic. univers," often mocks the detriment of ecclesiastical discipline, earnestly exhorting all Bishops to restore the ancient discipline, since the Church tolerates, but does not approve, the collapsed discipline (where you do not know what he understands by the name "Church," since he directs these words to all Bishops in the Prolegomena, 3); when speaking of Concordats, he is entirely intent on, by means of certain documents somehow brought to light, casting dust in the eyes of the uninitiated. It was enough for him to have insinuated, in his own manner, that it is the natural right of secular Princes to elect and confirm Bishops to vacant sees, so that the Roman Pontiffs, by means of Concordats, unjustly deprived them of this right, converting it into an indulgence. Thus, among other things, he wrote and concluded, part 1, title 13, chapter 3, number 8: "Whether the Chapters ought to await the consent of the Prince for the making of an election [of Bishops]; or whether the election made requires

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the approval of the Prince, it always happened that another..."

[*Latin ed. p. 537*]

APPENDIX X I . 537 Bishops and Archbishops, moreover, join in praising that little work, as is evident from the congratulatory letters sent to the same author, of which I shall mention one or two. The Bishop of Carcassonne wrote on June 2, 1871: "Sir, allow me to thank you for the excellent work which you have kindly sent me. The most serious religious and political questions concern the minds of men today; and it is preferred to have them accepted by the Gauls! (1)." Furthermore, the Archbishop of Toulouse wrote on the same day: "Your reasoning, your conclusions are well established, but what effort it takes to see them treated by those who, like yourselves, possess the authority of a great name, the love of virtuous principles, and sound doctrine. I share your view on an act of the Holy See which has been abused for too long; and I make fervent wishes that the Church may regain, in this matter as in all others, the fullness of its freedom."

Furthermore, Princes desired that canonical elections, which they themselves permitted or approved to be held at their discretion, should be confirmed. It is not surprising that the Princes, in the chapters subject to them, would assent to the canonical election, which they themselves allowed to be held at their own discretion, or that they would approve or disapprove of it. Indeed, it was within their power, either by their authority or by interceding with the Chapters, to ensure that the person they desired would be elected Bishop.

However, when they saw that nominations were being referred to the Roman Curia by Papal reservations, they no longer considered the provision of cathedral churches to depend on their own authority, but rather that, on the contrary, foreign persons, not pleasing to them, and sometimes even suspect, were being appointed to the prelacies of their kingdoms. Therefore, they opposed these reservations with all their effort and zeal, and wished to restore the canonical elections, and to restore their own authority, which they had possessed for so long.

On the other hand, the Popes (or rather, those who usurped the title of Pope), considering that, if canonical elections were restored, the nomination of prelates would in some way be returned to the Kings and Princes; while the Popes themselves would be completely excluded from it, so that even the confirmation of prelates, which by common law belongs to the Metropolitan, would not extend to them in the future, they considered it more convenient (see the simplicity of man, I) to grant the Kings the privilege or dispensation of nominating or presenting persons to the Pope for promotion to the episcopate, so that the Kings would appear to have the right to nominate bishops by virtue of a privilege or dispensation from the Holy See, and that the promotion and confirmation of bishops would

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be reserved to the Holy See.

Thus, how the Kings were victims of usurpation! This expression sums up the entire subtle and delicate reasoning of this upright man. I cite this example because I have often seen, especially in cases that come from Upper Italy to Rome, such a deplorable author cited. I do not understand how it is that Catholic authors, indeed, of the most illustrious names, sometimes give authority to this author in their writings, who constantly uses this manner of writing, and who, with the utmost lack of integrity, presents documents that are often false, always intent on exalting the authority of the Princes and depressing and reducing the authority of the Holy See to nothing.

(1) The noble man from Bonald added to this letter a filial response, with these words: "God will provide... Gen. 22, 8. And he who plants is nothing."

[*Latin ed. p. 538*]

538 APPENDIX X I. To these sentiments, the Bishop of Hebron, as auxiliary to the Bishop of Geneva; the Bishop of Petrocorix; the Archbishop of Tours; the Bishop of Atrehat; the Bishop of Annecy; and the Bishop of St. Claudius, also wrote. In that little work, the distinguished man undertook to resolve two questions concerning the Gallican Concordat celebrated in the year 1871, which had been presented to him as follows: "1° Has the present Government (called the National Defense) succeeded in obtaining the privilege granted by the Concordat of presenting bishops to vacant sees? " 2° If it is supposed that the Government has succeeded in this, does the Holy See have the right to revoke that privilege, given the abuses that have been committed in regard to it by the French Governments over a period of seventy years?" Considering that the noble De Bonald held that Concordat to be, both in its essence, as it is conformed to other Concordats, and in regard to abuses, he arrived at these two conclusions: 1° That the Concordat is a mere concession made by the Roman Pontiff to the French Government, of which the Roman Pontiff is always the sole master and judge; 2° That the act celebrated in the year 1801 cannot be considered a contract, by reason of the very nature of the thing, both because it takes place between spiritual and temporal power, which are powers of different natures, the second being subject to the first, as the body is subject to the soul; and because the object of it is something that cannot be the matter of an obligation on the part of the spiritual power. Everyone can easily see that, although the matter concerns the Concordat between the Holy See and the French Government celebrated in the year 1801, the question does not refer to this single event, but to all similar events that come under the name of Concordat; for it touches upon the nature of the Concordat. Sending his little work to Rome to Professor Peter Camillus Tarquini, a man then most learned in both public and private canon law, he received a letter from

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Catholic periodicals, highly praised, which he soon translated accurately into Latin. In my opinion, this letter is very useful, both for other reasons and especially because, in it, the nature and character of Concordats are explored by canonists of sound doctrine; and it is not uncommon for our canonists to become involved in the external form of Concordats, which often seems to present the appearance of a contract, almost of alienation; and this external form is introduced for no other reason than that neither he who waters, but he who gives increase, is God, Epistle to the Corinthians, 3:7. "We hope, with Mgr. Bishop of Périgueux and Sarlat, . . . that the truth will find a foothold and a cause for expansion in the lamentable events of which we are witnesses."

[*Latin ed. p. 539*]

(XI. In eiusmodi conventione, saepe inter lupum et agnum agitur. Contra, Canonistae aulici Concordata, sine ulla haesitatione, considerant tamquam alienationes potestatis ecclesiasticae; immo, Concordata habent tamquam aliquid gratiosum ex parte potestatis civilis concessum Ecclesiae, cum absurditer teneant, in potestate laicae potestatis natura sua ea iam et ampliora contineri, quae per Concordata sunt Guberniis a S. Sede concessa. Dicta autem epistola clarissimi iurisconsulti ita se habet: "Gratias tibi ago maximas ob egregium munus libelli tui de Concordatis, non modo quia tuae in me opinionis indicium fuit, verum etiam quia non mediocris mihi extitit causa voluptatis. Recreat enim, magnoque solatio est, laicum videre de rebus religiosis scite recteque disputantem constantique animo Ecclesiae iura asserentem, dum alios, quos magis decuit, timor humanarum rerum detinet, vel etiam in transversum rapit." Equidem intelligere nunquam valui quo pacto duo haec simul coniungi possint, et catholicam fidem profiteri, et Primatui Romani Pontificis detrahere, ita ut asseratur, Eum de libero Ecclesiae regimine ex ea parta decidisse, de qua in Concordatis dispositum est. Si quis enim ius illud, quod circa res spirituales, vel spiritualibus adnexas in aliquo Concordato constitutum est, variari, tum cum Ecclesiae bonum id exigit, ab Eo amplius per se non posse, qui toti Ecclesiae praepositus a Christo est, pro certo habet, simulque catholicam de Primatu doctrinam salvam esse arbitratur, is porro vehementer, mirificeque se decipit. Nemo quippe est e Catholicis, qui Primatum existimet gratiosam ius esse, merumque donum in favorem ac beneficium Successorum S. Petri collatum: imo de fide omnes tenent, instar oneris et obligationis iisdem esse impositum. At quidquid hoc nomine delatum est, id profecto ab humeris excutere sive ex toto, sive ex parte non licet; eiusque fides, cui tale munus datum est, Ei semper, qui dedit, obstricta manet. Quid porro censes, futurum esse, si quis e Romanis Pontificibus ante Christi tribunal constituatur, et de parte aliqua gregis, sive mactata sive vexata, in questionem vocetur, isque respondeat, se non potuisse huic malo mederi, quia in eo res versabatur, quod e sua

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potestate effugerat, causa videlicet Concordati, quod vel a se, vel ab aliquo e suis decessoribus initum fuerat? Quid tandem hoc est? inquiet Christus: "Etiamne venum oves meas dedisti?" At non aperte tibi iam edixeram, tum cum illas fidei tuae pascendas tradidi, eas non tuas, sed meas oves esse? Pasce agnos MEOS. Nonne aperte te monui, industriae curaeque tuae personali Me eas commisisse, quem propterea de amore in me tui ter Ego sciscitatus sum? AMAS ME? Pasce oves meas. Meridianae porro lucis est, neque ex toto,

[*Latin ed. p. 540*]

54-0 APPENDIX XI. Nor can the Roman Pontiff, entrusted with the care of the flock by Christ, abandon that care. But if a concordat is to be considered a reciprocal agreement, so that it is not permissible for the Vicar of Jesus Christ to assume administration and governance in a spiritual matter, or in a matter connected to the spiritual, which falls within the concordat, without the consent of the party with whom the concordat was entered into, is it not manifest that a true alienation has been made in that matter, and therefore that the dominion of Christ has been violated, and the constitution of the Church broken? "To me, it has always seemed a striking example, clearly perceived by the mind's eye, of the continuous corollaries that are repugnant to the Catholic faith, which emanate from such doctrines. For once these are admitted, it will be necessary to admit the following: that each Roman Pontiff can restrict the power of his successors; that the power of the successors is not entirely the same, nor equal, to that which was conferred by Christ upon St. Peter; that he who succeeds in the chair of Peter does not receive authority immediately from Christ, in the person of St. Peter, but from his predecessor; that since about sixty-two Popes have existed from Peter to Pius IX, if each were to make a new concordat, the power of the Primacy would have been reduced to almost nothing; and that since whatever can be alienated is also subject to prescription, the authority of the Primacy can also pass into prescription, etc., etc. But these things are abhorrent to Catholic ears, and this deeply correct faith is utterly rejected. I certainly wish to know how the proponents of such doctrines would resolve the practical question, when, under changed circumstances, what was previously tolerated in a concordat would then become pernicious and pestilent to the Church and the salvation of souls. According to their view, he who holds the power of Christ would be required to await the consent of that Christ, with whom the concordat was entered into. But it is clear to everyone how tenacious princes are in retaining their prerogatives; from which it is evident, even to a moderately prudent person, that such consent would never be granted. Therefore, what reason will be given for resolving this question? I have heard from a Catholic doctor (!), that in such a case it is necessary to appeal to the judgment of all peoples. I pass over the absurdity of such a counsel, and how the judgment of all peoples can be

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collected, reconciled, and known. I say only this, that such a proposition is in open heresy, since it establishes the supreme judgment in the Church in the people. That famous Gallicanism, which so many Roman Pontiffs, and other Bishops of the Catholic Church, have condemned by their judgments, is far more innocent than this proposition. Therefore, what remedy should be used? I will seem to be telling you an incredible thing; but this too has been proposed to me: the same remedy should be used.

[*Latin ed. p. 541*]

It is the condition in which two nations, each with its own laws, usually find themselves under similar circumstances: War! Is it so? War? I leave such doctrines to their authors; I return to practice. I ask them, do they intend, besides the damage, to mock the Church? With what weapons will the Roman Pontiff fight against a powerful Prince? Do they even wish to harm the Church, and not only oppress it, but even destroy it? Do they subject all things to the sword, and to brute force? "Indeed," says another, "there are other remedies that do not fail, by which the Church can defend its rights against Princes." What remedies? I see none other than excommunication. But if it is against a heretic, against one who despises and contemns the religion, what, I pray, effect can excommunication have against such men? And then, what will be the effects of excommunication? Will it bring about the loss of those prerogatives granted to him in the Concordat, which the good of the Church requires to be restored, or not? Do they deny it? Then it will bring no remedy. Do they affirm it? Then they concede that the Roman Pontiff can, at least by excommunicating him, abrogate the Concordats. But if he can do so by excommunication, why cannot he, with a milder and more merciful method? "You yourself know that in the government of the Church, the Supreme Pontiff is the legislator, while others are subject. As Christ said to Peter: 'FEED MY SHEEP,' John 21:17; for the shepherd has the duty to care for 'MY SHEEP,' while the others are part of the flock. You also said that a certain illustrious King of France (Louis VII) ordered that a message be sent to a powerful Emperor (Frederick I): 'Does the aforementioned Emperor not know that our Lord Jesus Christ, when He was on earth, entrusted His sheep to be fed to Peter, and through him to all his successors?' Has he not heard in the Gospel from the same Son of God, said to that same Prince: 'Simon, do you love Me? Feed My sheep'? Are the Kings of France, or any prelates, an exception? But those who cling to this doctrine are amazed when, in matters spiritual, or those connected to spiritual matters, such as those dealt with in the Concordats, they place the Roman Pontiff and the Princes on an equal footing, making them of equal rights. Indeed, in temporal matters, and those properly ordered to achieve a temporal end, we admit, and the Roman Church teaches, that the Princes are the ones who have authority. But in spiritual matters, or those connected to spiritual matters, they are subject; this is a dogma of

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the faith. Hence, rightly recalling the very elements of civil law, you see that it is absurd, and contradicts itself, that the legislator and the subject should be placed on an equal footing in authority; that it should be denied to the legislator, and to the dignity of the legislator, who does not receive power from the people, but directly from God, the right to change the laws, when it is in the best interests of the republic; that

[*Latin ed. p. 542*]

54-2 APPENDIX X I. In effecting these changes, those who are subject to them must be brought into agreement, and they must be compelled to seek and await this. Indeed, I do not see how the evidence of this could fail to be plain to all. "Gelsiore, we are certainly at a stage where any other human power, even that of the highest and absolute Prince, is subject to this; for the Church is the Kingdom of Christ, and the authority of the Roman Pontiff is not his own, but that of Christ, of whom he himself is the representative and the holder of power. Nevertheless, I would gladly allow anyone to recount the history of their own republic and to seek out examples of this kind. What, then, will they find? They will find feudal holdings attached to the body of the Republic, which had their own jurisdiction and laws, not merely by free law (as is the case with the Concordats), but by a law that was clearly burdensome; and this is certainly much more serious than the Concordats. They will find provinces that used their own laws, and which the Republic subsequently promised to preserve faithfully (what is more similar to the Concordats?). But they will also find provinces that, although free and of their own right, surrendered themselves to the Republic on a certain condition, and with a stipulation, as they say, that was indispensable, so that all laws and privileges would remain valid, sacred, and inviolable; which, indeed, far surpasses the power of any Concordat. Therefore, I ask, and I urge, what has been done about all these things? In one day, and with one decree, everything was abolished, abrogated, and deleted; and all were brought into complete conformity with the same law and the same laws, all in the name of public utility; and no one is allowed to question or re-examine this. But let everyone understand, I implore you, what this amounts to! Do they attribute to themselves and claim as their own what they deny to their Lord, to all men, to the Creator of heaven and earth, to Christ Jesus? For, as I said before, the Roman Pontiff exercises his power in the place of Christ, and his power is the power of Christ himself. "Furthermore, I also want to touch upon something else. If it is forbidden to sell and buy spiritual things for a price, I want them to tell me whether it is permissible to enter into a contract, even without a price. If that Simon the Magician had wanted to acquire the power to dispense the Holy Spirit by making a stipulation, without any money changing hands, do you think the Fathers would have treated him more leniently? Please, do not tell me that in the Concordats, spiritual things are not alienated, but rather that

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some kind of delegation is made regarding them, or something similar; for I answer that this can easily be admitted, if the right to revoke that delegation, or whatever it may be, is preserved; but when the right itself is ceded, and another is obligated, then, indeed, the spiritual thing itself is obligated, because the right to spiritual things is itself spiritual, in its own proper and true sense. "The argument on which these people think they triumph consists of certain Roman words."

[*Latin ed. p. 543*]

They constantly display themselves as fearful and timid. But if those things which are established are no longer within the power of the Pontiff to maintain, if the safety of the Church, if the salvation of souls, if the judgment of conscience, and if the divine voice of Christ commanding that care be taken for His flock, demand that these things be altered, or even completely abolished, who then can be so blind and foolish as to believe that, even in these circumstances, the Roman Pontiffs wished to divest themselves of their power and their office, and to bind themselves with an obligation which, by its very nature, would be unlawful and invalid? Would they tell us, in these circumstances, that the Roman Pontiff ought to submit himself to the judgment of the Prince with whom a Concordat has been entered into, or that a true necessity compels him to do so? It would be just as if one were to say that the Roman Pontiff ought to alter the divine constitution of the Church in these matters: and since Christ entrusted the governance of the Church to the clergy, with His personal care and diligence, and removed the laity from it, He ought to transfer that burden, which He had removed from their own shoulders, back to them. It would be just as if one were to tear down the principles of public law, and to claim that the rule established by the legislator is that the legislator, and that legislator who has power not from the people, but from Christ Himself, must depend on the consent of those who are subject to him in changing the laws. Finally, it would be just as if one were to pervert the norms and prescriptions of reason, that is to say, I do not demand that X [Pontiffs] be mentioned by name, with whom the nature of a synallagmatic agreement is asserted in the Concordats. However, when these things are objected, they send a message contrary to the principles of science, and undermine its foundations. They either do not know, or they do not want to distinguish between arguments, which are those that deserve weight and proof, and which must be classified as mere objections. True and proper proof can only be drawn from certain, immutable, and universally accepted principles. If any authority is presented that contradicts these things and cannot in any way be reconciled with them, it will be no more worthy of consideration than a certain objection, which must be dissolved and explained, even with improprieties, as they say, if it is necessary to use even harsh words, according to the most well-known and established rules of law. Therefore,

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what did the Roman Pontiffs want, when they seemed to have given the nature of a synallagmatic agreement to the Concordats? Nothing other than to dispel any shadows of suspicion, declaring that they were certain that, as long as it was permissible, they would maintain those things which had been established in the Concordats, and that, if the agreements were synallagmatic, they would do so in a manner not dissimilar to that which is customary in such agreements. And these things, which they promised, they have always maintained with unwavering and sacred faith, even to the very limits of their office: which, moreover, sufficiently and abundantly refutes those who harbor suspicions about the power of the Pontiff.

[*Latin ed. p. 544*]

544 APPENDIX concerning the administration of spiritual matters, the knowledge of which has been given to the Roman Pontiffs, and not at all to Princes, and concerning the perfect unity of this immense body of the Church, whose connections between individual members, and all the circumstances that affect and are involved in it, are known only to the Vicar of Jesus Christ, while they are unknown to Princes; therefore, the care for the just order and proper disposition demanded of the Princes themselves, must be taken away from the Roman Pontiff. "The nature of the primacy of the Pontiff, which is incapable of alienation, and that proportion which exists concerning spiritual matters, or those connected with spiritual matters, between the Roman Pontiff and the Princes, which is like that between a legislator and his subjects, you have rightly established. These are two obstacles, against which anyone who wishes to attribute the nature of a reciprocal agreement to the Concordats, always stumbles. When you recalled this point in the controversy, as if it were wandering, you arrived at its innermost nature: for the Concordat cannot otherwise be defined than as a particular ecclesiastical law, issued by the authority of the Supreme Pontiff for some part of the Church, at the request of the Prince of that place, and confirmed by a special obligation of the same Prince, to observe it perpetually. From this it becomes clear that the parts of the Roman Pontiff in the Concordats are those that belong to the legislator, while those of the Princes are those that are proper to subjects; yet, in addition to this, there is also something particular that the Princes have added, by which they have bound themselves, with a special obligation, to observe these things perpetually.

I see that I have gone beyond the just limits of the letter, but I have readily allowed it, not in order to offer you water from the spring, but so that it may be clear to you, and how much pleasure I have derived from your book, and how much I embrace what you think. I beg you to accept the significance of my excellent opinion of you."

CAMILLUS TARQUINI, of the Society of Jesus, Doctor of Canon Law at

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the Gregorian College of Rome, Dean.

[*Latin ed. p. 545*]

545 E X T R A C T. "REGAT" FROM THE CONGREGATION FOR THE PROPAGATION OF THE FAITH CONCERNING THE FACULTY GRANTED TO ORDINARY BISHOPS TO CELEBRATE MASS. Among the faculties granted to Ordinary Bishops by the Holy Congregation for the Propagation of the Faith, there is one expressed in these words: "To celebrate Mass twice in a day, if necessity demands," (provided, however, that in the first Mass, the ablutions are not taken), "before dawn and after midday, without a minister, and in the open air or underground, in a suitable place, even if the altar is broken or without relics of the Saints, and in the presence of heretics, schismatics, infidels, and excommunicated persons, if it cannot be celebrated three times a day." It is to be noted, however, that the aforementioned faculty or dispensation to celebrate Mass twice in a day should be used only for very serious reasons and very rarely, in which the one using it is heavily burdened by his own conscience. Furthermore, if it should be deemed advisable to communicate this same faculty to another priest, or to approve the reasons for its use by someone who has obtained this faculty from the Holy See, it is seriously enjoined upon his conscience to grant it only to a few, to those of mature prudence and zeal, and who are absolutely necessary, and not for any place, but where a serious necessity arises, and to grant it or approve the reasons for it only for a short time.

The following instruction refers to this article concerning faculties, and is of this tenor: Acts, vol. V, section LXXII, 85.

[*Latin ed. p. 546*]

546. INSTRUCTION OF THE HOLY CONGREGATION FOR THE PROPAGATION OF THE FAITH, ISSUED BY THE PREFACE, CONCERNING THE REPETITION OF THE MASS. DOCUMENT. "1. The faculty of repeating the Mass, which the Holy See usually grants to the Ordinaries of the Missions, so that they may communicate it to their Missionaries, has aroused not a few doubts, proposed by the same to this Holy Congregation. The reason for these doubts is derived from the very rigor of the clauses, which, by order of Alexander VII, were added to the relevant article of the Formulas. Therefore, it has seemed opportune to collect in this instruction the most common principles and rules, which must be kept in mind in the use of the aforementioned faculty."

2. Everyone knows that, according to the general rule of the present discipline of the Church, it is permissible for Priests to offer the Holy Sacrifice only once a day. Thus, Innocent III (1): "We answer that, except on the feast of the Nativity of the Lord, unless a cause of necessity suggests it, it suffices for the Priest to celebrate only one Mass in a day."

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3. In the case, therefore, of necessity, it is permitted to the Priest to repeat the Mass (1) Cap. *Consuluit de Celebratione Missarum*.

[*Latin ed. p. 547*]

INSTRUCTION OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH CONCERNING THE REPETITION OF THE MASS. §47 It is permitted to repeat the Mass on the same day. However, this must be understood, as is clearly evident from the very words of the formula, as a permission to celebrate only two Masses, despite the gravity of the reasons that might suggest celebrating a greater number. The Prefect of the Capuchin Mission in Tunet inquired whether, in the case that all his missionaries were imprisoned, he might, if necessity demanded it, celebrate more than two Masses on the same day. And the General Congregation of Propaganda, on August 7, 1684, decided: "that it is not permitted, by virtue of the granted faculties, to celebrate more than two Masses." This had already been answered in the General Congregation held before the Supreme Pontiff on February 17, 1648: for, after the abuse that had arisen among the priests held captive in Algiers of celebrating three Masses had been explained, "His Holiness... ordered, through the aforementioned Prefect (of Algiers), to command, in the name of his Holiness, to the priests... that, although the Apostolic See has granted the missionaries the power or license to celebrate twice in a day, when necessity requires it, they should not henceforth celebrate more than two Masses." The same was repeated in the years 1818 and 1820 to the Apostolic Prefect of Tunet.

[*Latin ed. p. 548*]

548 INSTRUCTION OF THE SACRED CONGREGATION FOR THE POPE'S PROPAGATION OF THE FAITH » 4. Necessity, therefore, is the sole basis upon which Priests are authorized to say two Masses. However, it is fitting to note, as Verricelli (1) observes, "that this necessity is not to be derived from the poverty of Priests, but from the spiritual necessity of the people, and the scarcity of Priests." Once this principle is established, it is easy to derive various negative rules regarding the use of the faculty in question. » 5. Firstly, it is clear that it would be improper for someone to say that two Masses can be said on suppressed feast days, on which the people are exempt from the obligation of hearing Mass, as the Holy Congregation warned in 1837: "After mature deliberation, it became clear from the very words of the formula that the faculty cannot be extended to abrogated feast days. For since the aforementioned formula declares that the faculty is valid if necessity arises, it follows solely from the title that those days were formerly feasts, that the Mass cannot be said twice by the same Priest." » 6. Secondly, it is likewise forbidden to say two Masses for the convenience of those who wish to fulfill the precept of hearing Mass

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in their own.

[*Latin ed. p. 549*]

CONCERNING THE REPETITION OF THE MASS. 549. In private chapels. In the year 1842, the Apostolic Vicar of Limburg reported that a custom prevailed in his territory of allowing the repetition of Mass in private chapels in Castro de Ordiales. Since he did not believe that such a practice was necessary in these circumstances, as required by the formulas, he requested, both on the grounds of custom and of the moral benefit derived from it, to be authorized to permit it. However, the Holy Office judged, according to what has been explained, that it was not advisable. And after the Apostolic Vicar had replied that some priests continued to repeat Mass because of a faculty previously granted by his predecessor, the Supreme Tribunal decreed: "That the faculty should be revoked, so that the Apostolic Vicar of Limburg may prudently judge whether it is permissible to do so." 7. 3°. From these resolutions, it is inferred that custom is not a sufficient reason for the same priest to offer the Holy Sacrifice twice on the same day. This is also in accordance with what was taught by Benedict XIV in the Constitution *Declarasti nobis*, dated March 16, 1746, addressed to the Bishop of Huesca in Aragon, in these words: "We only inquire whether that custom has acquired for itself the reason of prescription or presumption, and both are false, in private chapels." The Apostolic Vicar of Limburg had reported in the year 1842 a custom unusual in his Vicariate, permitting the repetition of Mass in Castro de Ordiales; since he did not believe that in these circumstances it was a necessity as required by the formulas, he requested, both on the grounds of custom, and of the moral benefit that would result from it, that he be authorized to permit it. But the Holy Congregation of the Inquisition judged: according to what has been explained, that it was not advisable. When the Apostolic Vicar added that some priests, by a faculty previously granted by his predecessor, continued to repeat Mass, the same Holy Congregation decreed: "That the faculty should be revoked, so that the Apostolic Vicar of Limburg may prudently judge whether it is permissible to do so." 7. 3°. From such resolutions, it is inferred that custom is not a sufficient reason for the same priest to offer the Holy Sacrifice twice on the same day. This is also in accordance with what was taught by Benedict XIV in the Constitution *Declarasti nobis*, given on March 16, 1746, to the Bishop of Huesca, with these words: "We only inquire whether that custom has acquired for itself the reason of prescription or presumption..."

[*Latin ed. p. 550*]

550 INSTRUCTION OF THE HOLY CONGREGATION OF THE PROPAGATION OF THE FAITH, concerning whether we judge. "And concerning prescription, it says: 'If, indeed, sacred things cannot be prescribed accord-

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ing to civil laws, it is entirely absurd to assert that something has been obtained or acquired through prescription, which is contrary to the universal sanctions of the Church, the observance of which the Holy Council of Trent commands to all priests in the celebration of the Masses.' Concerning presumption, it adds: 'But, setting aside all other considerations, we hold that this can be understood concerning those privileges which could have been obtained from the Apostolic See, if someone had requested them, and not concerning those which, when requested, are entirely accustomed to be denied, lest presumption have more strength and importance than truth.' Therefore, when the Holy Congregation learned that in some place the custom of saying two Masses without necessity had become prevalent, it did not fail to reprove such customs as an abuse, urging the zeal of the Bishops to eliminate it." 8. 4°. Also, the poverty of priests is far from justifying the saying of two Masses, as has already been mentioned from Verricelli (1).

Certain individuals in Ireland (1, cited).

[*Latin ed. p. 551*]

ON THE REPEATING OF THE MASS. 551 An Archbishop of Ireland inquired in 1688 whether, "for the sole" reason of poverty, Religious could celebrate two Masses "on feast days, doing so in private homes, although" all the parishes and convents have their own churches and chapels. The response of the Holy Congregation was negative; and because it was reported in the two particular Congregations of Propaganda held on March 7, 1743, and July 28, 1750, that this abuse still prevailed in Ireland, because many priests availed themselves of the "opportunity" of repeating the Mass for no other purpose than to receive more "abundant" alms, and therefore to support themselves more comfortably, the Most Reverend Fathers ordered: "Let the priests be strictly warned not to abuse the faculty of celebrating Mass twice in a day, so that they may have a larger and more ample stipend." And by Benedict XIV (1), the abuse is called "intolerable" the granting to a priest of the faculty of repeating the Mass, with the end in view that he might more decently support himself with a double alms. Only to show some consideration for the poor Religious of that kingdom, who had complained of a similar prohibition made in the Archiepiscopal Synod of 1688, it was requested: "Whether, for the sole reason of poverty, the Religious could celebrate two Masses on feast days, doing so in private homes, although all the parishes and convents had their own churches and chapels." The Holy Congregation's response was negative: since it was reported to the particular Congregation of Propaganda held on March 7, 1743, and July 28, 1750, that such an abuse still prevailed in Hibernia, and that many priests availed themselves of the faculty of repeating the Mass for no other reason than to receive more abundant alms, and thus to support themselves more comfortably, the Most Reverend Fathers decreed: "Let the priests be strictly warned not to abuse the faculty of

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celebrating Mass twice in a day, so that they may have a larger and more ample stipend." And by Benedict XIV (1), the abuse is called "intolerable" the granting to a priest of the faculty of repeating the Mass, with the end in view that he might more decently support himself with a double alms. Only to show some consideration for the poor Religious of that kingdom, who had complained of a similar prohibition made in the provincial Synod of Tuam, and because of the damage resulting therefrom, the prohibition was lifted from them.

(1) Apostolic Constitution Ministerium, May 30, 1753, §. 11.

[*Latin ed. p. 552*]

552 INSTRUCTION OF THE SACRED CONGREGATION. To the Provincial Superiors, concerning the harm it caused them, by depriving them of the alms which they were accustomed to receive at the door of the Church during Mass, while they lived off the contributions of the faithful, the Sacred Congregation decreed that the Bishops should be informed, that "in accordance with the authority of the Holy See, priests should have the permission to celebrate two Masses on holy days, by order, for reasons of necessity, as approved by the Apostolic Constitutions, for the religious orders, and especially for those who reside in poor monasteries." Furthermore, having declared to the Council that "according to general practice, priests are not permitted to receive alms for a second Mass, even though it is a matter concerning those who, being engaged in parochial duties, cannot obtain a stipend for the first Mass, and are therefore obliged to offer it for the people," as was notified by a circular letter of the Congregation for the Propagation of the Faith of October 15, 1863, to the Ordinaries of the missions, every pretext for the abuse of offering Mass with the intention of receiving a stipend has now been removed. However, considering the particular circumstances of some missions, the Holy Father deigned to authorize, as a form of alms which they were accustomed to receive at the doors of the churches during Mass, while they lived off the contributions of the faithful, the Sacred Congregation decreed that the Bishops should be informed, that "in accordance with the authority of the Holy See, priests should have the permission to celebrate two Masses on holy days, by order, for reasons of necessity, as approved by the Apostolic Constitutions, for the religious orders, and especially for those who reside in poor monasteries." Moreover, as the Sacred Congregation of the Council declared: "according to general practice, priests are not permitted to receive alms for a second Mass, even though it is a matter concerning those who, being engaged in parochial duties, cannot obtain a stipend for the first Mass, and are therefore obliged to offer it for the people," as was notified by a circular letter of the Sacred Congregation for the Propagation of the Faith, dated October 15, 1863, to the Ordinaries of the missions, all doubt and every pretext for offering Mass with the

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intention of receiving a stipend has been removed. However, having taken into account certain circumstances of the missions, the Most Holy Father deigned to grant authority, as is evident from the aforementioned circular letters, to their Ordinaries, to permit that "a just and grave..."

[*Latin ed. p. 553*]

CONCERNING THE REPEATING OF THE MASS. 558. As stated in the aforementioned circular, the aforementioned Ordinaries are permitted to allow "that, if a just and grave reason intervenes, subordinate priests may also receive a stipend for celebrating a second Mass on the same day, and may do so." 9. 5°. Finally, it must be noted that it is forbidden for a priest to celebrate Mass twice, if another priest can be found by whom the needs of the people can be satisfied, as expressly taught by Benedict XIV in the aforementioned Constitution, *Declarasti Nobis*. Therefore, before allowing the repetition of Mass, it is necessary to examine whether there is any remedy established by law to provide for the spiritual needs of the people; and first of all, the parish priest himself is obliged to give the stipend to another priest; if he is unable to do so, the people are obliged; and finally, if even the people could not be compelled to do so because of their poverty, the Ordinary should provide for it (1). 10. Thus far, the cases in which the repetition of Mass is prohibited. Now, concerning the cases in which the necessity arises for the repetition of Mass, these are explained in the Constitution, *Declarasti Nobis*. In this (1) Ben. XIV, 1. c., Votum Card. Zelada, Thesaur. Resolutionum, t. 87, io, causa Derthusen, 26 August 1768.

[*Latin ed. p. 554*]

554 INSTRUCTION OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH: effect. Having found the same matters discussed in the Constitution *Declarasti Nobis*. In it, it is first observed that, according to the unanimous consensus of the Theologians, it is permissible to dispense with the Mass for a priest "who holds two parishes, or two populations so separated that one of them cannot, on feast days, in any way be present with the celebrating priest due to the great distance." And this is the first, and more common, case; the other case mentioned therein is "when there is only one church in which the Mass is celebrated, and to which the entire population cannot simultaneously gather."

II. In the aforementioned cases, the Mass may also be dispensed with by those who are not endowed with the faculties granted by the formulas that are customarily issued by the Sacred Congregation for the Propagation of the Faith, since the common law itself permits it, always, however, depending on the Ordinary, to whom it pertains to judge both the true necessity, as well as the possibility of applying canonical remedies (§ 9). Indeed, after having indicated such means, Benedict XIV adds: "All that has been said up to this point is subject to general canonical sanctions." Moreover, it is

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the concordant opinion of the Theologians, as Benedict XIV observes in the Constitution. In the case of one parish priest with two parishes, "the parish priest cannot..."

[*Latin ed. p. 555*]

ON THE REPEATING OF THE MASS. 555. The case of a single parish priest having two parishes: "a parish priest cannot only be able, but plainly be obliged to celebrate the Mass twice on the same day (1)." Consequently, it easily follows that the analogous article in the Formulas, being facultative, extends also to other cases of necessity not contemplated in common law, otherwise that article would become useless, at least for those places where the parishes are canonically established, since common law itself provides for these parishes. This is in accordance with what the praised Pontiff says in the work *De Sacros. Missae Sacrificio* (2), where, after stating "the case which truly occurs is when a parish priest has two parishes, etc.," he continues with the following words: "However, we do not intend to prejudice anything concerning other cases which occur in missions, in which it is decided to grant missionaries the faculty of celebrating more Masses on the same day; also, concerning other cases in which, either because of the distance of places, or because of the scarcity of priests, or because of the persecution of heretics or infidels, it is necessary for priests to celebrate two Masses, so that the faithful may not lack the Mass. And concerning such causes which have a place in missions, for which the superiors of missions are given the faculty, it was acted (1) *De Syn. Dioec. L.VI. c. VIII. n. 2.* (2) *Lib. III. c. V. n. 4.*" From this it easily follows that the article in the Formulas, since it is facultative, extends also to other cases of necessity not considered in common law; otherwise that article would become useless, at least for those places in which parishes are canonically erected, since common law itself provides for these parishes. This is in accordance with what Benedict XIV teaches in the work *De Sacros. Missae Sacrificio* (2), where, after mentioning: "the case which truly occurs, when a parish priest has two parishes, etc.," he continues with these words: "However, we do not intend to prejudice anything concerning other cases which occur in missions, in which it is decided to grant missionaries the faculty of celebrating more Masses on the same day; also, concerning other cases in which, either because of the distance of places, or because of the scarcity of priests, or because of the persecution of heretics or infidels, it is necessary for priests to celebrate two Masses, so that the faithful may not lack the Mass. And concerning such causes which have a place in missions, for which the superiors of missions are given the faculty, it was acted."

[*Latin ed. p. 556*]

556 INSTRUCTION. Since the reasons for which dispensations are granted in the Missions, and for which the Superiors of the same are given

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the faculty, were discussed in 1832 by the Propaganda in a letter to a Missionary of Philippopolis, who no longer celebrated Mass, although he served several populations. Having been ordered, moreover, by order of the General Congregation, the following was added: "If she asks why those clauses of rigor are joined to the faculty of celebrating Mass in the formula of the Indult, she will find the answer in the formula itself, observing that the Indult is not restricted to the needs of the people on festive days, but, being in general terms, it also includes other cases in question, such as the necessity of administering the Viaticum to the sick in both parishes, and in these other cases the prescribed precautions must take place." 12. Now, precisely for these less obvious cases, Bishops and Missionaries have often found themselves embarrassed in the use of this faculty, mainly doubting the sufficiency of the reasons that were required, according to the clauses that accompany it. On the other hand, so many and so different are the cases that can occur in this matter in the Missions, that it is not easily...

[*Latin ed. p. 557*]

ON THE REPETITION OF THE MASS. 557 It is very difficult, and indeed impossible, to foresee and, much less, to reduce to certain rules, the circumstances that might warrant the repetition of the Mass, since judgment concerning the same must vary according to the diverse circumstances of places, times, and persons present. This is why the resolution of particular doubts raised in this matter has generally been entrusted to the wise discernment of the Superior of the Mission.

13. On several occasions, a rule has been requested regarding the sufficient number of faithful required for the repetition of the Mass. In the Apostolic Constitution *Ministerium*, issued for Anglia, it is stated that the faculty to repeat the Mass may be used "when the number of those who are obliged to attend Mass on feast days presents such a necessity that, unless some priest is granted the power to celebrate two Masses on the same day, the needs of the Church could not be adequately met." However, this general criterion does not eliminate all doubt regarding the number necessary for the repetition. The same can be said of a negative response from the Holy Office in 1688 to certain Capuchin missionaries in Graecia. They had inquired: "Whether a missionary priest, alone in a place, may celebrate two Masses on Sundays and feast days for fifteen or twenty persons, who..."

[*Latin ed. p. 558*]

55S INSTRUCTION S. 6. P. F. "He may celebrate for ten or twenty persons who, being legitimately hindered, are unable to attend the First Mass; but the Supreme [Authority] decreed on January 28th of the same year that it is not permitted. If, however, the number of twenty is insufficient for the purpose, it may further be asked, what is the minimum number that suffices."

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14. But concerning this doubt, as well as those concerning distance, the Holy Congregation has maintained the principle of leaving these matters to the prudence of the Ordinary of the Mission, from whom the faculty depends; for they alone, in the places where they are, can properly weigh all the circumstances involved in individual cases. Indeed, as early as 1688, the Prefect of the Mission of Tunis in Barbary generally requested that it be declared what should be the number of faithful who, otherwise deprived of Mass, might be present so that Mass could be repeated; and the General Congregation of Propaganda on November 16th replied: "Let it be left to the charity and conscience of the Reverend Prefect." Similarly, the Bishop of St. Louis in the United States of America in 1828, after explaining his own and the fear of other Bishops of burdening their own consciences due to the clauses of the formulas, requested: "Whether thirty or fifty..."

[*Latin ed. p. 559*]

ON THE REPEATING OF MASS. 559. Some were troubled by the clauses in the formulas, and asked whether, when thirty or fifty faithful are exposed to danger, they may hear Mass twice, even though it is not a Mass of precept. In reply to this, a letter was written on March 13, by order of Leo XII: "You must lay aside all anxiety of mind, and not be disturbed by the harshness of the words. Entrust yourselves to your conscience and prudence, so that you may judge in which cases, considering the circumstances of your diocese, there are serious reasons to grant the faculty of which we are speaking to the priests. And when you have judged that there are such serious reasons, according to your conscience and prudence, His Holiness has benignly declared that you may use this faculty without any doubt."

15. A similar reply was also given in 1851 to the Apostolic Vicar of Limburg, who had proposed a doubt concerning distance. "In this region," he wrote, "permission to celebrate Mass twice is sometimes granted due to moral necessity, even if the nearest parish is not more than a middle league away; is this correct?" The Congregation of Propaganda replied by letter on July 31: "After the bishops have diligently fulfilled their office to the best of their ability..."

[*Latin ed. p. 560*]

560 INSTRUCTION OF THE SACRED CONGREGATION, dated July 31st, responded: "Since it is the duty of the Bishops, according to their abilities, to ensure that this faculty is used to assist the needs of the faithful, a general rule cannot be established for each individual case. Therefore, in cases such as those mentioned above, where there is a shortage of priests, and after all other circumstances have been carefully considered, it is up to the prudent judgment of the Superior to determine whether grave reasons are present which would justify the dispensation from the general precept of not repeating the Sacrifice, and whether the faculty to repeat the Mass

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should be granted, so that he may use it with all due moderation, as is clearly indicated by the very words of the Apostolic Indult." This instruction, in its own terms, was sent to the Bishop of Treves in 1853, who had previously raised various doubts about repeating the Mass. He had written to them on September 28th, and after considering his questions, "the Sacred Congregation decided that an instruction should be given, which... the Apostolic Vicar of Limburg obtained on July 31st, 1851." 16. Furthermore, among the various responses, which entrust the judgment to the Superior...

[*Latin ed. p. 561*]

ON THE REPEATED CELEBRATION OF THE MASS. 561 Regarding the gravity of cases brought before the Superior, some deserve particular mention, such as those which, without deviating from the ordinary rule of referring the assessment of cases to the Superior himself, simultaneously indicate in some way the nature or degree of necessity required for the dispensation, and sometimes temper somewhat the impression, and calm the excessive anxiety that the clauses had produced in the Bishops and Missionaries, whereby this faculty is restricted. One such response was given in 1848 to a Bishop in the United States of America: "I come to your request (so in a letter of May 9th) concerning the manner of interpreting the necessity that is required for the lawful use of the faculty of celebrating Mass twice a day... Therefore, Your Eminence should understand that the necessity of which we speak is to be understood as real, but moral; not absolute, and therefore judgment in each case depends on prudent judgment, considering the circumstances. Therefore, you must be careful in this matter not to be overly anxious in judging, lest the aforementioned faculty seem to be granted in vain, or almost never to be put into effect."

More noteworthy is the declaration that some cases, because of their gravity, deserve particular mention; such are those which, while following the customary rule of referring the assessment of cases to the Superior's judgment, simultaneously indicate in some way the nature or degree of necessity that the repeated celebration of the Mass requires, and likewise temper somewhat the impression and alleviate the excessive anxiety that those clauses had created for the Bishops and Missionaries, by which this faculty is restricted. One such response was given in the year 1848 to a Bishop in the United States of America, and in the letters given on May 9th, it is written thus: "I come to your request concerning the manner of interpreting the necessity that is required for the lawful use of the faculty of celebrating Mass twice a day... Therefore, Your Eminence should understand that the necessity of which we speak is to be understood as real, but moral; not absolute, and therefore judgment in each case depends on prudent judgment, considering the circumstances. Therefore, you must be careful in this matter not to be overly anxious in judging, lest the aforementioned faculty seem to be granted in vain, or almost never to be put into

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effect."

[*Latin ed. p. 562*]

INSTRUCTION from the Sacred Congregation of the Propaganda Fide in the year 1828, addressed to an Apostolic Prefect in the Antilles of America. Trusting that the said Prefect might freely make use of the faculty in question, given the grave circumstances surrounding him, he had implored "a broader faculty from the Apostolic See to allow Priests... to celebrate Mass twice on Sundays and feast days, if necessity or the spiritual benefit of the faithful requires it." Upon being informed of this matter by the Holy Father in an audience on April 13th, the following response was given: "Such is the estimation of your virtue and prudence, that the Most Holy Lord has commanded that you should lay aside all anxiety of mind, and if you deem it necessary, or greatly beneficial to the faithful, that Priests celebrate Mass twice on the same feast day, you should not be troubled by the strictness of the words contained in the aforementioned decree. Therefore, His Holiness has benignly declared that you have the faculty, through the aforementioned decree, to allow Priests to celebrate Mass twice, to judge of the necessity and the gravity of the circumstances, according to your prudence and conscience."

A similar declaration was made in the year 1828 to a certain Apostolic Prefect in the Antilles of America. Since he did not trust that he could freely use the faculty in question, due to the grave conditions in which he found himself, he implored "a broader faculty from the Apostolic See to allow Priests to celebrate Mass twice on Sundays and feast days, if necessity or the spiritual benefit of the faithful requires it." Upon being informed of this matter by the Holy Father on April 13th, the following response was given: "Such is the estimation of your virtue and prudence, that the Most Holy Lord has commanded that you should lay aside all anxiety of mind, and if you deem it necessary, or greatly beneficial to the faithful, that Priests celebrate Mass twice on the same feast day, you should not be troubled by the strictness of the words contained in the aforementioned decree. Therefore, His Holiness has benignly declared that you have the faculty, through the aforementioned decree, to allow Priests to celebrate Mass twice, to judge of the necessity and the gravity of the circumstances, according to your prudence and conscience."

[*Latin ed. p. 563*]

ON THE REPEATING OF MASS. 563 » 17. The same rule of deferring to the judgment or charity of superiors in the missions regarding the application of general principles to practical cases has also been observed when, as explained, there did not appear in these cases that grave urgency of reasons, at least when considered in themselves and in the abstract, which the clauses of this faculty require; which indeed confirms that, when con-

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sidering the reasons that justify the use of this faculty, great weight must be given to all the conditions and the state of the faithful. An example of this is the response given by this Holy Congregation in 1688 to the Vice-Prefect of the Mission of Tripoli. He, uncertain regarding the aforementioned clauses, had inquired: "To what number of slaves or free people may the second Mass be precisely celebrated, since sometimes it happens that, in a bath outside of Tripoli, no more than ten or twelve slaves are present at the sacrifice... and if, in the absence of priests, for these alone, may the second Mass be celebrated on feast days?" Now, despite the unfavorable decision issued in that same year by the Holy Office for a similar case, as noted above in § 13, the Holy Congregation for the Propagation of the Faith, on October 5th, responded: "It is left to the charity and conscience of the Reverend Father Prefect."

[*Latin ed. p. 564*]

564. The Instruction of the Sacred Congregation of the Propagation of the Faith, in its session of October 5th, ordered: "The matter is to be left to the judgment and conscience of the Reverend Father Prefect." It is not surprising that the Propaganda believed it could adopt a more lenient interpretation, given that we are dealing with slaves, who, by their condition, deserved a special indulgence, since perhaps the only comfort they had was to witness the Holy Sacrifice. Another indication of a tendency towards a more lenient interpretation, or perhaps a degree of connivance in light of the circumstances, was provided by the Supreme [Authority] in 1860; for although on June 20th it responded to the Apostolic Vicar of a kingdom adjacent to China, stating that "the desire of the Neophytes to receive the Most Holy Eucharist twice or three times a year, by itself, is not an urgent reason, in the case in question," that is, to repeat the Mass according to the faculty, nevertheless it added: "but considering all the circumstances of the place and the people, it is to be left to the judgment of the Reverend Father Apostolic Vicar." From this it is clear that those reasons, which by themselves, and therefore in many places, are not serious, can become serious in certain other cases, due to the circumstances associated with them.

18. These are the principles that have been kept in mind regarding the faculty to dispense [from abstinence], and which will certainly be the case if this Holy Congregation has shown a more lenient interpretation; for we were dealing with slaves, who, by reason of their particular condition, deserved a special indulgence, since perhaps the Holy Sacrifice was their only comfort. Another argument of this kind, taking into account the circumstances, was provided by the Holy See in 1860. It stated: "Although on June 20th, it responded to the Apostolic Vicar of a certain kingdom adjacent to China, stating that 'the desire of the Neophytes to receive the Most Holy Eucharist twice or three times a year, by itself, is not an urgent reason, in the case in question,' that is, to repeat the Mass according to

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the faculty, nevertheless it added: 'but considering all the circumstances of the place and the people, it is to be left to the judgment of the Reverend Father Apostolic Vicar.'" From this, it is deduced that those reasons, which by themselves, and therefore in many places, are not serious, can become serious...

[*Latin ed. p. 565*]

CONCERNING THE REPEATING OF MASS: 565. The Ordinaries of the Missions should utilize the regulations pertaining to the same. Although it is customary to defer to the wise judgment of the Ordinaries of the Missions in this matter, it is clear from what has been discussed how much they must be cautious, always bearing in mind the legitimate exercise of this extraordinary faculty. Nevertheless, the clauses used in the formulas "should not be interpreted with extreme rigor, always keeping in mind that the Apostolic See grants this faculty for the spiritual benefit of the faithful, desiring that all may easily fulfill the ecclesiastical precept." (This warning was given by the Holy Congregation in 1832 to the Bishop of Nicopolis in Bulgaria.)

19. Now it remains to speak of the rite, that is, the manner to be observed in repeating the Mass. It is necessary to observe that the Missionaries have always been instructed by the Holy Congregation and by Pope Benedict XIV himself that the one who repeats the Mass should not take the usual ablutions of the chalice because of the fast, so that "if, after receiving the Body and Blood in the first Mass, he has taken sustenance," he should not, in the aforementioned cases, exercise the faculty of repeating the Mass, and this, indeed, will reassure the Ordinaries of the Missions in the exercise of this same faculty. Although it is customary to defer to the prudent judgment of the Ordinaries of the Missions, nevertheless, from what has been said, it is clear how much caution they must exercise; since their conscience must always be burdened in the exercise of this extraordinary faculty. Nevertheless, it is worth repeating what the Holy Congregation wrote in 1832 to the Bishop of Nicopolis in Bulgaria, that the clauses used in the formulas "should not be interpreted with extreme rigor, always keeping in mind that the Apostolic See grants this faculty for the spiritual benefit of the faithful, desiring that all may easily fulfill the ecclesiastical precept."

19. It now remains to speak of the rite, or the manner in which the Mass may be repeated. It has always been prescribed by the Holy Congregation to the Missionaries, and by Benedict XIV, that the one who repeats the Mass should not take the customary ablutions of the chalice because of the fast, so that "if, in the first Mass, after receiving the Body and Blood..."

[*Latin ed. p. 566*]

INSTRUCTION OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH: "To celebrate [the Mass], even in those cases

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in which the people would otherwise be deprived of the Mass on festive days. Although, by decree of the Sacred Congregation of Rites in Elusitan, on September 16, 1815, it was prescribed that only one chalice should be used by one who celebrates two Masses; since the observance of such a decree involved not inconsiderable difficulties, when it should be necessary to celebrate in two churches remote from each other; the aforementioned Sacred Congregation, in the general meetings of September 12, 1857, moderating the previous decree, decided that the use of two chalices could be permitted in such a case (2). The instruction which is appended here, compiled by order of the same Sacred Congregation, concerns the manner of purifying the chalice used for the first Mass. From the Secretariat of the Sacred Congregation for the Propagation of the Faith, May 24, 1870.

"He who has received the Precious Body, ought not to celebrate the second Mass in the aforementioned vessels" (1); that is, even in those cases in which the people would be deprived of the Sacrifice on festive days. Although, in the Decree of the Sacred Congregation of Rites in Elusitan, on September 16, 1815, it was prescribed that only one chalice should be used by one who celebrates two Masses; however, the execution of such a decree would be subject to not inconsiderable difficulties, when it should be necessary to celebrate in two churches remote from each other; the same Sacred Congregation, in meetings held on September 12, 1857, in order to moderate the aforementioned Decree, decreed: that the use of two chalices could be permitted in such a case (2). The instruction which is added here, prepared by order of the same Sacred Congregation of Rites, concerns the manner of purifying the chalice which is used for the first Mass. From the Secretariat of the Sacred Congregation for the Propagation of the Faith, May 24, 1870.

[*Latin ed. p. 567*]

ON THE REPEATING OF THE MASS. 567. It is not permissible for a priest to repeat the Mass on the same day, unless there are canonical reasons that make such repetition lawful.

II. Such canonical reasons are contained in this general principle: The Mass may and should be repeated if, by no other means, the people who have the right and duty to hear Mass on holy days cannot do so.

III. The judgment as to whether such reasons exist does not belong to the parish priests or presbyters, but to the Bishop or Ordinary, from whom permission to repeat the Mass must be obtained, so that abuses may be avoided.

IV. These things, which are derived from common law, are also common to Ordinaries of missions, independently of the faculty that they have through the Holy Congregation for the Propagation of the Faith.

V. Therefore, when Ordinaries of missions have a faculty delegated by

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the Holy See to repeat or to allow the repetition of the Mass for their missionaries, it should not be understood that this faculty overrides what has already been granted to them by common law; but rather, that it extends what has been granted to all Ordinaries by common law to other cases as well (1).

VI. Therefore, the most serious clauses attached to this faculty must be understood to have been added for no other reason than to prevent abuses of the faculty.

(1) Among the cases that are mentioned in the aforementioned Instruction, to which the faculty extends, the case that was proposed by the Summary of Prayers to the Holy Congregation of the Council on September 17, 1859, should also be included, namely, this case: In Gallus, in the year 1802, several holy days were suppressed by Cardinal Caprara, so that the faithful were not obliged to hear Mass on those days. Among such suppressed holy days, the feast of the Circumcision of the Lord should be included, which coincides with a civil holiday. The Bishop of Argentinensis, seeing that this civil holiday was being equated to a feast of the Church, so that a grave scandal would arise if the people could not hear Mass on that day, proposed this doubt to the Holy Congregation: "Whether Rectors of seminaries and assistant priests, to whom the Bishop of Argentinensis has granted the faculty of celebrating two Masses on Sundays and holy days in certain places, can make use of this (ordinary) faculty on the feast of the Circumcision? And, in order that a negative answer may be given, they supplicate, by special grace, that they may be allowed to do the same on this feast as they do on Sundays and holy days by order."

The Holy Congregation, after deliberation, responded: "For a period of five years, with all due consideration. Since, as is noted in the Instruction, a sufficient reason for repeating the Mass is not solely the suppression of the feast, it may nevertheless be a reason if the people considered the feast, although suppressed by decree, as a feast of the Church, so that a grave scandal would arise if they were to see that the Mass was not celebrated on that day. For the feast would be suppressed by law, but in fact, it would not be suppressed."

[*Latin ed. p. 568*]

568 CONCERNING THE REPETITION OF THE MASS. VII. However, abuses are to be avoided, whenever the one who has the authority, at the discretion of a good man, after considering the circumstances, judges it necessary or very useful to repeat the Mass. VIII. Such a moral necessity can arise from various reasons, that is, from justice (at least in places where parishes have been canonically established), so that the people are not deprived of the Mass on feast days; from charity, so that the people are not forced to endure great inconveniences in order to attend Mass; so that they are not deprived of the principal comfort for fostering Christian

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piety; so that scandal does not arise, and similar reasons. IX. This necessity, which arises from justice, seems to outweigh the prohibition of repeating the Mass, to the extent that not only can the Mass be said twice in the same day, and it should be, but also three or four times (1), if it cannot be otherwise attended to the needs of the people. X. Nevertheless, the repetition of the Mass is prohibited if the priest has ceased to be fasting. (1) The faculty, about which the Instruction speaks, namely that, when there is a moral necessity, the Mass may be repeated, so that it may not be the case that only one priest can offer this sacrifice on the same day, even if more than two people arrive for Mass, we understand that this refers to cases other than those that have already been mentioned. In the case where the Basilica is not needed, but there is a faculty granted by the Apostolic See, there are usually two priests present, so that when one priest has attended to a larger number of people, the other can offer the Sacrifice as many times as there are people: therefore, if there are three or four people, the same priest must repeat the Mass as many times as there are people, unless they have arrived at the beginning of the day. Therefore, we urge you to show love and concern for your family and to remind them to observe the custom that has been handed down from the traditions of our fathers. The most excellent letter of Saint Leo the Great to the Bishop of Alexandria, Dioscorus, concerning the observance of discipline between the Roman and Alexandrian Churches, is a testament to this. In this letter, Saint Leo, concerned about the repetition of the Mass in certain circumstances, gave the following instruction: "So that in all things our observance may be in harmony, let this also be observed, that when a solemn feast has gathered a multitude of the faithful, and that multitude is so great that the Basilica cannot contain them all, the Sacrifice should be offered as many times as there are people present; and let this be done, especially for the sake of piety and reason." With these words, the principle of justice is indicated. But I will speak more piously about these things in the following Volume VII.

[*Latin ed. p. 569*]

ON THE REPEATED CELEBRATION OF THE MASS. 5 69 XI. It is not permissible to receive alms for repeated Masses, unless such has been granted by apostolic authority. XII. Such an indulgence is usually granted only in places where missions are held, due to particular necessities (1).

INSTRUCTION ON THE PURIFICATION OF THE CHALICE. Issued by the Holy Roman Church on March 11, 1858, for those who are obliged to repeat the Mass in certain places (2), « WHEN the priest is obliged to celebrate two Masses on the same day, in the first Mass, while receiving the divine Blood, he must carefully drink it. Then, he places the chalice on the corporal and covers it with the pall, and with joined hands, in the middle of the altar, he says: "What we have taken in our mouths," and

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then, bringing a vessel of water, he washes his fingers, saying: "Wash your body and cleanse it." After these things have been done, the chalice, still resting on the corporal, is covered as is customary, namely first with the purificator, then with the paten and the pall, and finally with the veil. After this, he proceeds with the Mass, and after the last Gospel, he stands again in the middle of the altar, and, having uncovered the chalice, he examines whether any of the divine Blood has remained at the bottom, which often happens. For although the sacred species are first carefully drunk, nevertheless, while they are being taken, some particles, which are nearby, are left behind, and thus do not go up, unless the chalice is placed at the bottom. If, therefore, a drop of the divine Blood remains, it must be carefully drunk again, and indeed from the same side from which it was first taken. This must not be omitted in any way, because the Sacrifice is morally lasting, and, according to the divine precept, must be completed as long as there are still some of the wine species remaining. » Afterwards, the priest pours into the chalice at least as much water as he had previously poured wine, and he pours it around from the same side from which he had drunk the Precious Blood, into a prepared vessel. Then, he immediately wipes the chalice with the purificator, and finally covers it, as is customary, and departs from the altar. After the sacred vestments have been laid aside, and the act of thanksgiving has been completed, the water from the chalice (1) See the reason concerning the application of the second Mass, which I mentioned on p. 526. (2) You will find this instruction in vol. III, page 604 of these ephemerides.

[*Latin ed. p. 570*]

570 INSTRUCTION OF THE HOLY ROMAN CHURCH CONCERNING THE PURIFICATION OF THE CHALICE: For the sake of propriety, or if the Priest should return on the following day to celebrate Mass, the chalice shall be kept (if indeed he should return on that day to celebrate Mass) and, in order to maintain its purity, it shall be emptied, or the residue absorbed in cotton or a sponge and burned, or it shall be left in the sacristy, if it needs to be dried, or it shall be poured into a basin. "However, if the chalice, which the Priest has already used, has already been purified, and he needs it again for the same Mass, he shall carry it with him; otherwise, he may use a different chalice for the second Mass." Since the aforementioned instruction of the Holy Roman Church only considers the case in which the Priest is to celebrate two Masses in the same place on the same day, it seemed fitting to add here the rite to be observed by the Priest when he must offer both Masses in the same church, taken from the commentaries of Bartholomew Cavanti and Caietan Mary Merati. "Therefore, in this case, after having received the Precious Blood in the first Mass, the Priest shall carefully leave the chalice, the paten, and the pall covering the paten, upon the corporal, and shall say, with joined hands: 'What we have taken with

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our mouth, O Lord, etc.' Then, he shall wash the fingers with which he touched the Holy Sacrament in a clean vessel prepared for this purpose on the altar, saying in the meantime, 'Body of Christ, O Lord, etc.,' and, having wiped the chalice with the purificator, he shall cover it with a veil and place it upon the extended corporal. After the Mass, if there is no sacristy in the church, the chalice shall be left in the same manner upon the altar; otherwise, it shall be taken to the sacristy, and there, upon the corporal or pall, in a suitable and enclosed place, it shall be kept until the second Mass; in which Mass, since he must use the same chalice, he shall again take it with him to the altar, and place it upon the extended corporal. When, in the second Mass, the Priest has reached the Offertory, he shall remove the veil from the chalice and place it for a short time towards the Epistle side, but not outside the corporal, and, after the offering of the host, he shall take care not to wipe the chalice with the purificator, but shall leave it within the corporal, and shall slightly elevate it, and shall carefully pour into it the wine and water, taking care that no drops may splash against the rim of the chalice, which he shall then, as usual, offer, without wiping it from the inside."

[*Latin ed. p. 571*]

571. FROM THE REGION SUBJECT TO THE AUTHORITY OF THE COUNCIL OF TRENT. To the Most Reverend and Venerable Prelate. On the 12th of August, 1871. Concerning a certain matter. The Most Reverend and Venerable Prelate divided, in the year 1867, the Archiepiscopal Diocese N in America into two dioceses, due to its excessive size. The Archiepiscopal Diocese retained its ancient title, N; the other was called the Diocese G. In the document of division, it was not explicitly stated, as is customary, concerning the Priests who would be subject to the jurisdiction of the new Bishop. Therefore, the following question arose. Alexius, who had long been a Priest of the Archiepiscopal Diocese N, and a professor in its seminary, had been born in that part of the territory which, through the division, became the Diocese G. The new Bishop of G, pressed by the lack of Priests, desired to claim Alexius as his own Priest, since he was born in the newly established diocese and did not hold any permanent ecclesiastical office or benefice elsewhere. The Archbishop of N did not oppose the wishes of the Bishop of G; indeed, he repeatedly urged Alexius to follow the example of the Bishop of G. But Alexius maintained that this was not legally permissible for the new Bishop, because he had been ordained with the intention of remaining subject to the Archbishop of N, and he had chosen and acquired a domicile where he performed the duties of a professor. He added, however, that he would comply with the wishes of the Bishop of G, if a declaration from a Roman Congregation should intervene. The new Bishop of G, considering that the office of Alexius would greatly benefit his Church, and that other indigenous

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Clerics residing in the seminaries of the Archiepiscopal Diocese N for the purpose of study might also, in the future, be subject to his jurisdiction, proposed the following questions to be resolved.

[*Latin ed. p. 572*]

572 OF JURISDICTION. 1°. To which persons the jurisdiction of the Bishop of the new diocese extends, at the time of the division. 2°. Whether the Bishop of the new diocese has the right to recall all those ecclesiastical persons who, having been born within its boundaries, at the time of the division were exercising some office in that part which is attributed to the old diocese, but were not placed there in any benefice or ministry of caring for souls. Such a case has been submitted to the Holy Congregation for judgment. Synopsis of the discussion. OPINION OF THE CANONIST. Before the case was presented to the Holy Congregation for discussion, the opinion of a Canonist was requested, which may be briefly summarized as follows. The formula which the Holy Consistorial Congregation usually uses when dealing with dioceses that are being divided is generally of this nature: "Let the new Bishopric of N be constituted and assigned to the entire territory, which now consists of the designated district of N; and therefore, the aforementioned city of N, and all other cities, towns, or parishes that are now located within the territorial boundaries of that district of N, together with all churches existing in those places, whether they be parish churches, chapels, oratories, monasteries, pious institutions, both secular and regular, and all benefices, as well as persons of both sexes, whether secular or regular (except those who are exempt), both clergy and laymen, all inhabitants of whatever status, rank, and condition, shall be subject in the same way to the ordinary jurisdiction, government, power, and authority of the Bishop of N for the time being, and shall be assigned and attributed to him, for the city, diocese, clergy, and people." From these words it is clear that the jurisdiction of the new Bishop extends 1° over the entire district or territory in which the new diocese is situated; 2° over all persons inhabiting that territory; and therefore, it can be said that all persons are subject to the new Bishop to the extent that they reside within that territory: "for jurisdiction is inherent in the entire territory, just as mist is in the entire marsh," as Barbosa says in chapter 19, in the words "In tua sunt." But when we say that all the inhabitants of the territory are subject to the new Bishop, we mean...

[*Latin ed. p. 573*]

The purpose of jurisdiction is to apply to those who reside within the territory, not materially, but legally. Those who are said to legally reside in a place are those who have established a domicile there; those who are found in a place for business or office are legally not residents, but rather pilgrims and sojourners. It is not ambiguous (as stated in chapter 7 of the book on

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residents) that each person has a domicile where he has established the sum of his affairs and possessions, from which he would not depart, unless something compels him; therefore, when he departs, he appears to be a pilgrim; and if he returns, he ceases to be a pilgrim. From these things, we can generally conclude that all those who resided within the territory of the new diocese, division, and erection at the time, in such a way that they had established a domicile there according to legal requirements, are subject to the jurisdiction of the new Bishop. This is what the Canonist wrote concerning the first general question. Regarding the second question, namely, which ecclesiastical persons would be subject to the jurisdiction of the new diocese, the same Canonist established the following principle: those to whom anyone is subject to a Bishop by reason of Holy Orders, are also subject to him by reason of jurisdiction. However, he added, today there are four titles of Holy Orders, namely, origin, domicile, benefice, and three years of residence; *Innocentius XII, Speculatores*, on November 4, 1694. But jurisdiction, once acquired, endures perpetually, unless some legal event occurs that releases the ecclesiastical person from this jurisdiction; such an event is usually the acquisition of a benefice or domicile in a different diocese, with the consent of the proper Bishop. Therefore, in general, the Canonist believed that the following could be answered to the second proposed question: all ecclesiastical persons who were subject to the new diocese at the time of its division are those who either had their origin from it, or held a benefice within it, or had legally established a domicile within it. However, those who were indeed from that place, but had established a domicile elsewhere with the permission of the Bishop, or had obtained a residential benefice, are not subject to the jurisdiction of the new bishopric. He used the term "residential," because a simple benefice, although it may be a title by which someone becomes subject to a Bishop by reason of Holy Orders, nevertheless, after ordination and after the acquisition of jurisdiction, does not exempt the *Cleric* from subjection.

[*Latin ed. p. 574*]

574. Of the proper jurisdiction of the Bishop of origin. Furthermore, he maintained that the title of familiarity could not hold in this matter. However, since it is customary for the Sacred Congregations to respond not through general principles, but only by applying general principles to particular facts or cases, the canonist confined the entire question to the case of the priest Alexius, namely, whether Alexius, in the circumstances in which he found himself, was obligated to obey the Bishop G who was recalling him to the new diocese. He considered that Alexius could not refuse the order of the new Bishop. He demonstrated this based on the principles previously explained: that is, Alexius had been ordained by the Archbishop N because that part of the archdiocese belonged to him, which had been separated by division; and that with the arrival of a new Bishop in that

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separated part, everything was subject to him, with the same right as it had been subject to the Archbishop N previously: and therefore, Alexius, if no legal impediment existed, remained subject to the new Bishop. It therefore remained to be seen whether any legal act had exempted Alexius from the territory of the new diocese. The canonist maintained that such a legal act could be the acquisition of a benefice or a domicile; but neither of these existed in the case at hand. And he argued that a domicile in a place where someone resides by reason of an office is not acquired, even if that office is exercised there for many years: which is a principle universally accepted and widely indicated in the Documents of the Sacred Congregation, as in the Decree of 20 April 1771, §. Civitas; in the Decrees of Priverna and Albano, of 26 January 1833, §. Vo»; for the office, which is conferred at the will of the conferring authority, is removable, and does not imply a permanent intention of residing in a particular place. Therefore, the situation was as follows before the new diocese was established; with the establishment of the new diocese, and the appointment of a new Bishop, Alexius immediately, by law, passed under the authority of this new Bishop; and therefore, it was not lawful for Alexius to transfer his residence or to acquire a benefice in the diocese in which he resided without the permission of the new Bishop, as is stated in chapter 16 of the Council of Trent, session 23, de Ref. After these statements, the canonist responded to the objections raised by Alexius, namely, that he himself had been educated in the seminary of the Archdiocese of N and had been admitted to the priesthood by the Archbishop N, and with that intention.

[*Latin ed. p. 575*]

JURISDICTION. 575, so that he might perpetually be subject to the same Archbishop, to whom he had promised obedience. And to the first point, he responded that a delay in the seminary would not help in acquiring a domicile; and that, just as those who reside in another seminary for the purpose of study cannot, without proper dispensations, be ordained by the Bishop of their origin or domicile, as was judged in the cases of Spoleto and Rieti, on June 11, 1840, which is in accordance with the aforementioned Constitution *Speculatores*. Therefore, through such a delay in another seminary, even if they obtain a place gratuitously, the students do not escape being subject to the foreign Bishop in whose seminary they are educated. To the second point, he responded that Alexius, through his sacred ordination, was indeed bound not to a person, but to the Archbishop, and to the Archbishop only insofar as he exercised jurisdiction in that part of the territory from which Alexius was originally from, and not from any other title than that of origin and domicile: because of this title, he now owes obedience to Bishop G. To the third point, he responded that it is not sufficient to have the intention of establishing a domicile in a place and of escaping the jurisdiction of someone. For if we could achieve this merely with intention,

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no one would wish to be subject to a lord who was not the best. To the fourth point, he responded that the obedience promised to the Archbishop, at the time of the sacred ordination, extends to all those prelates to whom a priest must legitimately obey wherever he may be: which was also noted in a certain document concerning the case of Rieti, Residence, January 26, 1833, §. And that, with these words: "But Britius promised obedience not to the Bishop of Rieti, but only to the Most Reverend Cardinal, Vicar of the City," the Bishop (of Rieti) observes that the promise extends to all those prelates to whom a priest must legitimately obey wherever he may be; and that Benedict XIV warns that it should not be considered a mere, empty formula, but a solemn pledge of obedience and reverence that a priest makes in the hands of the ordaining Bishop, according to the most ancient custom of the Church (Catalanus ad Pont. Rom. vol. 1). Indeed, he adds that the priest, by the force of this promise, is bound by law, so that he cannot leave the service of the Church to which he was dedicated at ordination without the permission of the Bishop; Haller de Sacris, vol. 1, p. 1, § 14.

[*Latin ed. p. 576*]

576 JURISDICTION. Since, therefore, the obedience promised to the Archbishop N, and to his successors, extends to all those prelates to whom those who are ordained are legitimately subject, Alexius today owes obedience to the Bishop G, to whom he is subject by reason of his origin, and who has succeeded to the rights previously held by the Archbishop N. But, although Alexius no longer has the Archbishop N as his proper Ordinary due to the division of the diocese, and, conversely, is subject to the Bishop N as his proper Ordinary, it remains to be inquired whether Alexius, in the circumstances in which he finds himself, is absolutely bound to obey the Bishop G, who is recalling him to the new diocese, under no condition. This secondary question was treated by a canonist, whose words I quote, and which are as follows. Although some authors assert that clerics who do not hold a benefice are required to have a precise and personal residence, and that they can leave and go wherever they please, and that bishops cannot deny them dismissal, and that certain ancient resolutions of the Sacred Congregation are cited in support of this view; Fagnanus nevertheless warns against such collections, and affirms that their opinion is entirely contrary to the decree of the Council of Trent cited in chapter 15 concerning renunciations. Antonellus, in *De Iure et oneribus Clericorum*, book 2, part 6, chapter 8, and in the case of Healinae concerning residence, January 26, 1833, §. Moreover, the older resolutions of this Sacred Congregation, in which it is stated that a cleric who is not assigned to a specific place cannot be retained by his bishop against his will, so that he may not leave his diocese and accept a parochial position elsewhere, as in Arimina, December 5, 1574, seem to be to be

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understood in the sense that the bishop cannot retain clerics against their will without a just cause, and unless he provides for them with adequate support. See Nicol. Lucubrat. Can., book 1, article 22, number 3; Card. De Luca, *Disputationes Adnotationes ad Conc. Trid.*, number 4; and in the case of Nucerina concerning residence and suspension, September 5, 1818, §. Furthermore, this condition is always found to be present in subsequent resolutions, as can be seen in Amerina, May 8, 1756, in the aforementioned Nucerina, in Reatina, January 26, 1833, and elsewhere. Therefore, it seems that all avenues are closed to Alexius to exempt himself from the jurisdiction of Bishop G, and to refuse the orders of that bishop, who is recalling him to his own diocese. However, for the sake of clarity, two...

[*Latin ed. p. 577*]

I shall add certain cases discussed before the Holy Congregation, which may shed some light on the present controversy. The first case concerns the Reatina Residence, which was dissolved on January 26, 1833. It involved Gaspare Britio, a native of the Reatina diocese, who had been initiated into the minor orders by his bishop, then admitted among the students of St. Vincent de Paulo in Rome, and promoted to the subdiaconate and deaconate by the Most Eminent Vicar of the City, and assigned to a patrimony in the Reatina countryside. After a few years, he abandoned this sacred family and returned to his homeland, where he took up the profession of teaching boys. Five years later, through fortunate circumstances, he obtained the parish benefice of the Archpresbytery in the town of Monti Buoni in the Sabina diocese, and, after obtaining the necessary Apostolic permissions, he was installed in his position, and subsequently appointed as the Vicar Forane. However, the Bishop of Reatina refused to grant him permission to leave, and even recalled him. The Holy Congregation responded that Britio could be compelled to return, provided that the Bishop provided him with a suitable provision; and this, although Britio claimed that he had been promoted to the sacred orders by the Most Eminent Vicar of the City, and that the possession of the parish had been granted to him by Apostolic letters, and that he had not received any augmentation of benefice, nor had he been assigned to any church within the Reatina diocese, but had promised obedience to the Most Eminent Vicar of the City. The Most Eminent Fathers, considering the quality of Britio's origin, by which he was subject to the Bishop of Reatina, and the fact that the jurisdiction of the Bishop of Reatina was revived by Britio's return to the religious life, compelled Britio to return to the Reatina diocese.

The second case concerns the Nucerina Residence and Suspension of September 29, 1818. It involved Gervasio Aleandri, a native of the Nucerina diocese, who had gone to the Tudertina diocese, where he served as a rhetorician and rector in the seminary. He contended that he could not

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be retained in his own diocese, since he was not assigned to any church in that diocese. Nevertheless, the Holy Congregation decided that the suspension imposed upon him by the Bishop of Nucerina was valid, and that the order by which he was recalled to his own diocese was to be maintained, provided that the Bishop provided Aleandri with a suitable provision for the diocese. *Acta, tom. VI, fase. LXXII, 37.*

[*Latin ed. p. 578*]

578 OF JURISDICTION. Given these circumstances, the question arises: Is the priest Alexius N. obligated to obey the Bishop G, who is recalling him to his own diocese? It seems to me that the answer should be: Affirmative, provided that he is provided with adequate support by the Bishop. But, in addition to the canonist's opinion, several other observations are added by virtue of their office. It is reiterated that the Bishop of the new diocese has jurisdiction over all the faithful, both priests and clerics, who are within its territory, whether by reason of origin or by reason of domicile, at the time of the erection of the new diocese. It is observed that clerics who reside in the seminaries of the Archbishop of N. for the purpose of study cannot exempt themselves from this jurisdiction. For it cannot be said that they acquire a domicile there solely for the purpose of study, as stated in Canon 2 of the Code of Canon Law concerning residents: "Nor are those who reside in a place for the purpose of study considered to have a domicile there, unless they have established their residence there for ten years, according to the letter of St. Hadrian." Nor can they exempt themselves from this jurisdiction by reason of the collation of holy orders; for although it was formerly the law that a cleric was subject to the Bishop from whom he received holy orders, Thomassin, *De veteri et nova disciplina ecclesiastica*, p. 1, section 1, paragraphs 3 and 4, nevertheless, with the passage of time, such a discipline has declined, as argued from Apostolic Canon 1, 2, 3 concerning time, in the 6th canon. This concerns the clerics of the new diocese of G, who were obligated to reside in the seminaries of the Archbishop of N.

THINGS OBSERVED IN FAVOR OF ALEXIUS. Furthermore, in order to confirm the rights of Alexius, it is observed that no one is prohibited from choosing a domicile wherever they wish, as stated in section 31 et seq. of the *Ad Municipales*, where it is written: "Nothing prevents anyone from having a domicile wherever they wish, provided it is not forbidden to them." And this is not prohibited even to members of a family, as stated in section 3 and section 4 et seq. of the *Ad Municipales*. "Ulpian says that even a family can have a domicile, not necessarily where the father had it, but wherever the son establishes his domicile." That is to say, as explained there by the Glossa: not only where the father has it, but wherever the son establishes his domicile for himself. This seems to have been confirmed by the Holy Congregation in the case of the Bononienses, or Ferrarians, on the day of ordination, November 14, 1733. The cause of this case was as follows:

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Francis, in the year 1702...

[*Latin ed. p. 579*]

He was born in the town of Cento, in the diocese of Bologna, where his father had his home. In the year 1703, his father left with his family and household belongings, and went to Ferrara, where he had been granted an inheritance and resided. Francis was educated in Ferrara, under his father, and devoted himself to the study of literature, obtaining the degree of doctor and other public offices, as a citizen of Ferrara, from the magistracy. However, when Francis later inherited another property, he returned to the town of Cento, with the intention (as he was prepared to swear) of living there permanently, separately from his father, who remained in Ferrara. After three years, when Francis desired to enter the ecclesiastical state, a doubt arose as to whether he should be initiated into the clergy by the Archbishop of Bologna, or by the Bishop of Ferrara. The matter was brought before the Sacred Congregation of the Council, and the formula of the doubt was proposed: "Whether, in the case of Francis, the ordination should pertain to the Most Reverend Archbishop of Bologna, or rather, to the Most Reverend Bishop of Ferrara?" The Sacred Congregation responded: "It pertains to the Most Reverend Archbishop of Bologna, provided that the Most Reverend Bishop of Ferrara provides testimonial letters (1)."

(1) In the file of the case, the following was noted to the Sacred Congregation: "Indeed, it is certain that Francis was, from his origin, subject to the Archbishop of Bologna, in whose diocese he was born. But it is equally certain that his domicile was subsequently transferred to the City of Ferrara, and for this reason, he was released from the jurisdiction of the Bishop. Since the subjection originating from his birth does not cease by virtue of a domicile acquired later, according to Text in I. Cum te, and in I. Si quis Cod. de municip. et orig. lib. 40, and in I. Privilegio Cod. de Incoi, lib. 10, it would follow that Francis has a subjection suitable for rightly receiving the Orders from either Ordinary that he prefers, as noted by Fagnan in Cap. Significavit num. 42 de Paroch. For this case, the sanction of the Bullae Innocentianae, which begins Speculatores in§. At si Pater, does not apply. There, the Pope states that, in such a case, the domicile should be considered rather than the origin, where the son was born in the place where the father was experiencing a delay, fortuitously and by accident. This is different in the case at hand, since the town of Cento was truly the paternal town, in the diocese of Bologna, where Francis was born. But a circumstance worthy of special consideration is that the son has now returned to the place of his origin, and has established himself there, possessing the goods of the inheritance granted to him. It must be considered whether the present domicile, connected with his ancient origin, should be preferred to the domicile previously contracted in Ferrara, but which the son has now abandoned and seems to have relinquished; and therefore, it must be

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determined whether Francis today relinquishes..."

[*Latin ed. p. 580*]

58. Furthermore, if anyone is permitted to establish a domicile wherever they please, it appears that Alexius established his domicile in the place where he held the professorship, which was far from his family, and within a diocese still subject to the Archbishop N, even after the division. It can be affirmed that, due to his prolonged residence, he had made that place his domicile, which is sufficient to establish a domicile according to I. 20 ff. concerning municipal law, where it is stated: "Domicile is transferred by fact and deed, not by mere assertion." Therefore, the question arises whether the domicile previously attributed to him with respect to the Bishop of Ferneres has been removed by this change of domicile, and whether he is now subject only to the Archbishop B, and whether he can legitimately be promoted to the Orders only by him. However, in this matter, it must be noted that Francis is a son and is subject to paternal authority, and furthermore, the use and enjoyment of the inheritance which Francis himself acquired in Oppido Cento pertains to his father in Ferneres, according to the prescription of civil law.

However, it is clearly stated in L. Placet and I. Non utique ff. concerning municipal law that a son can establish a domicile for himself after reaching the age of majority, and acquire the rights of domicile wherever he wishes, even separately from his father. Someone may, however, have more than one domicile, according to Text in leg. Eius qui §. i and in I. Labeo ff. concerning municipal law; therefore, it is possible that two domiciles might be considered in Francis, namely, his own proper domicile and his paternal domicile, since the latter is communicated to the son by the father, according to Text in I. Assumptio §. If a son ff. concerning municipal law, L Filios Cod. de municip. lib. 10. However, someone who has two domiciles may receive the Orders from the Bishop of either place, just as he may hold two benefices in different dioceses, as demonstrated by Antonell. de regimin. Eccles, lib. 2 cap. 4 n. 41 and de loc. leg. lib. i cap. i num. 30. Pax Iordan. Lucubr. lib. 3 tit. 6 nu. 65 Riec. in prax. Eccles, par. 4 resol. 275. Passen n, in cap. cum nullus de temp. Ord. in 6 qu. 4 art. 2 n. 55 cum duob. seq. Barbos. de Episc.par.2 alleg. A. num. 37 et seqq. This, however, is understood if the condition of each domicile is equal, for example, if someone lives in two places for an equal amount of time; otherwise, if one domicile is more important and primary, this should be taken into account, as explained by the aforementioned Doctors. Similarly, if someone holds a simple benefice in one diocese and a benefice with a residence requirement in another, the Bishop of that place should be preferred for the Ordination, because the reason for the benefice is added to the reason for the domicile, as Antonell. de regim. Eccl. d. lib. 2 cap. 4 n. 22 believes.

However, in this particular case, there is a difficulty, because if Francis

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had left Ferneres with the intention of returning there, it could certainly be said that he retained his paternal domicile, even though he had been absent for several years, and therefore he could be promoted to the Orders by the Ordinary of that same paternal domicile, as Navarr. conf. 3 de tempore Ordin. lib. 4 states. But on the contrary, it is strongly argued that Francis went to Oppido Centum with the intention of living there permanently. Therefore, it seems that he has completely abandoned his paternal domicile and has established a new one elsewhere. Pigliateli, consul. 480 num. 6i tom. 9, states that a son should be initiated into the Orders not by the Bishop of the paternal domicile, but by the Bishop of the domicile of his own residence.

[*Latin ed. p. 581*]

JURISDICTIONIS 581, moreover, because Alexius, as he himself stated, "was ordained with the intention of remaining subject to the Archbishop and, at the time of the erection [of the diocese], was a Professor, which he always has been and still is," under the authority of the aforementioned Archbishop. Therefore, there was no lack of reason and intention for establishing a domicile there. Finally, it was noted that, even if the hypothesis is made that Alexius has not established a domicile in the place where he currently resides, it is entirely permissible for him to remain there and he cannot be compelled by the new Bishop G to leave that place; the reason given is that clerics who are not attached to any specific place or endowed with any ecclesiastical benefice, can leave the diocese, even against the will of the Bishop, according to the Resolution of the Holy Congregation of the Council in Ariminen, on December 5, 1574, in which it was decreed: "A cleric who is not attached to a specific place cannot be retained by his Bishop against his will, so that he may leave his diocese and take up a parochial position elsewhere." This reason holds greater weight in the matter at hand, in which the diocese is now divided into two parts, and in this division, each person should be free to remain in the place where they resided at the time of the division, as is customary in political governance, when a region passes from the jurisdiction of one prince to that of another.

THINGS NOTED AGAINST ALEXIUS. But again, contrary to what was presented in favor of Alexius, it was noted that: although what was stated above regarding domicile is true, it is also true that no one can be removed from their place of origin by their own will, according to /4. C. de Munie, and orig., where it is written: "No one can be removed from their place of origin by their own will, it is manifest." The Holy Roman Rota Tribunal has firmly maintained this principle of law, stating that the domicile of origin is not lost by residing in another place, especially if the person retains their home and property in the place of origin, Recent. dec. 364 n. 7 par. 13; and decis. 364 n. 5 par. 6 t. 1. Furthermore, it has also decreed that a renunciation of the domicile of origin is never presumed unless it is made

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through an express declaration at the moment of migration, or through a long period of time, which must exceed ten years, Recent, decis. 589 n. 19 par. 5 t. 2. Fagnanus, in chapter Significavit, de Parochiis n. 9, 10, 11, distinguishes between the domicile of habitation and the domicile of origin, and with respect to the matter at hand, he states: "Note from this Decretal two principal effects of the translation of domicile. The first is, that through such a translation... "

[*Latin ed. p. 582*]

582 OF JURISDICTION: "Who is exempt from the jurisdiction of the former Bishop? Chapter. You have proposed..." And thus, the jurisdiction which one holds over inhabitants and foreigners, "by reason of domicile, expires precisely when that inhabitant departs from there, so that one cannot subsequently exercise jurisdiction over such a person who has departed." The second effect is that Episcopal jurisdiction is transferred to the Bishop of the place where the domicile is established, so that "just as the temporal lord acquires jurisdiction over the inhabitant, so too does the spiritual lord..."

However, note that the first effect of the renunciation of jurisdiction by the first Bishop does not claim for oneself the place, that is, the one who has transferred his domicile, was not originally from there, as in the case of this decree. For these were not originally from the Kingdom of Jerusalem, but had chosen to reside there. Therefore, since they were not subject to those Prelates except by reason of domicile, with the transfer of domicile, they remained entirely subject, since the cause of subjection completely ceased... But it is different in the case of someone subject by reason of origin; for although he may transfer his domicile elsewhere, he is not thereby exempt from the jurisdiction of the natural lord, neither in spiritual matters, nor in temporal matters. Regarding spiritual matters, there is a text in chapter "No one, from the temporal order," where it is clear that a Bishop cannot confer Orders on someone originally from his diocese, even if he resides elsewhere. And if he can ordain, then certainly he can judge, chapter "No one," and there the Glossa fin. is also found above, on the same subject. Similarly, here, he can be summoned in the place of his origin. For one cannot, by his own will alone, renounce citizenship by reason of origin, since natural things are immutable. Moreover, here, the person remains subject regarding personal obligations. Therefore, if he is summoned to perform some duty in the place of his origin, he will be obliged to fulfill it, even if he resides elsewhere; for the inhabitant is bound by the duties and obligations of the place, of the domicile, and of the place of origin, as stated in the aforementioned / Incola, etc.

If, therefore, the domicile of origin is never lost with regard to certain spiritual matters, among which is the subjection regarding the power of ordaining; and if it is not presumed that such a domicile has been renounced

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with regard to other matters, unless it is clearly established; then it must be said that Alexius is still fully subject to the Bishop of his origin, since there was no indication that he had renounced his domicile of origin. On the contrary, it was said that the opposite was the case, since there was no prolonged residence with his relatives.

[*Latin ed. p. 583*]

583. The sum of his jurisdiction pertains to matters and the fortunes of his life; since he possessed a house and property in the place of his origin, where his parents resided. After these things, they were said to be of no importance, which were asserted by Alexius concerning his intention and regarding the option to be made in the division of the diocese: for these assertions were simple, the first of which, although true, lacked the reality of a fixed domicile; the second, concerning Clericum, was erroneous, as it was linked to legitimate ecclesiastical authority. For what is permitted by civil law for the good of the common order cannot be demanded of church ministers, who are bound to their churches or dioceses by much stricter ties. Regarding, however, what was noted concerning Clericum, it was not necessary to give a response in this matter, concerning a church or pious place not attached to any diocese, which, even against the will of the proper bishop, can receive a parish outside the diocese. For the matter at hand concerns the foundation of subjection, which, so to speak, is the root of jurisdiction over certain clerics and certain faithful. It does not pertain to a primary, but to a secondary question, whether the bishop can compel his own cleric to remain in the diocese, or, if he resides outside the diocese, whether he can compel him to return, if he is not attached to any diocesan church from which he receives sustenance; since no one can be compelled to serve for his wages. However, for the declaration of the matter, it is noted that the Council of Trent, Session 23, de Ref., chapter 16, following the decrees of the Council of Chalcedon, has established: "Since no one ought to be ordained who is not useful or necessary to his churches, the Holy Synod, following the example of the sixth canon of the Council of Chalcedon (1), decrees that no one shall henceforth be ordained who is not attached to that church or pious place, for whose necessity or benefit he is received, where he performs his duties, nor shall he wander about in uncertain places. And if he shall have deserted the place without the consent of the bishop, let the exercise of the sacred ministry be forbidden to him." The same Tridentine Constitution was confirmed and more fully declared for the kingdoms of Spain by Innocent XIII in the Apostolic Constitution Ministerii, on May 13, 1773, and again by... (The text is incomplete).

[*Latin ed. p. 584*]

584. The decree *Jurisdictio*, issued by Pope Benedict XIII on September 23, 1724 (1). And it is repeated in the Council of Rome under Benedict

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XIII, Title 6, Chapter 2, with these words: "Furthermore, no one shall be admitted to the clerical tonsure, unless he is at the same time assigned to a church, for whose service he ought to be ordained. But if there are those, even those marked with minor or sacred Orders, who have not been assigned to any certain church, the Bishops shall supply the omission of such assignment, even if it was omitted by their predecessors, and shall designate, at their discretion, the service to be rendered as often as it is necessary: and we grant that this assignment, when it concerns those who have already been promoted outside the diocese, either for study or for some other reason approved by the Bishops, may be postponed for the time that the Bishops themselves deem fitting." Thus, even if those who are assigned are clerics, even if they are married or hold benefices or ecclesiastical offices, they shall not be absent from the service of the church to which they have been assigned, especially on festive days, particularly the more solemn ones, but shall perform their proper duties there; otherwise, they shall not be promoted to higher ranks, and those who have already been promoted shall not be promoted (1). Pope Benedict XIII, in the aforementioned Constitution, refers to and confirms the Constitution of Innocent, in which the following, among other things, is declared concerning the Spanish kingdoms: "We wish that, for the more secure execution of this decree, no other archbishops and bishops of the Spanish kingdoms shall admit anyone to the first tonsure in the future, except those to whom an ecclesiastical benefice is immediately conferred; or those who have shown, by their studies, that they are eager to pursue the path of entering the minor and then the higher Orders; or finally, those who are deemed fit to be assigned to the service of some church. And both in those who are to receive the first tonsure, and in others who have desired to be promoted to the minor Orders, the rule transmitted by the same Council of Trent shall be observed in every way; namely, that no one shall be ordained who is not useful or necessary to his churches, and that he who is taken for the benefit or necessity of a church or pious institution shall not be assigned where, in fact, he cannot perform the functions of his office. Moreover, if those who have already received the clerical tonsure or those who have already been promoted to the minor or higher Orders have not been assigned to any certain church or pious institution, the Bishops shall immediately supply the omission of such assignment, both with regard to all those who are constituted in the higher Orders, even the presbyterate, and with regard to those who have only received the first tonsure or the minor Orders, but who hold an ecclesiastical benefice. But with regard to others, as is stated, those who have only received the first tonsure or have been constituted in the minor Orders, but do not hold a benefice, shall not be assigned unless

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the Bishops judge them to be useful or necessary to their churches."

[*Latin ed. p. 585*]

JURISDICTIONIS 585 » The Bishops, according to the gravity of the disobedience, may impose penalties. » But with increasing obstinacy, the Bishops, beyond the penalties prescribed by the Council of Trent, after three canonical admonitions against the disobedient and contumacious, may proceed to the deprivation of all clerical privileges; this, however, shall be subject to the provisions of our Constitution regarding this matter. Furthermore, certain ancient resolutions of the Sacred Congregations, cited by Pignatelli, concerning those who are assigned to a particular church, who, according to the disposition of Trent, cannot depart without the express permission of the Bishop, and who, if they abandon the place without the Bishop's consultation, may be forbidden from exercising the sacred ministry, are also indicated. On this matter, Pignatelli wrote various resolutions and opinions, referring to volume 3, consultation 56, numbers 2, 3, and 4. «If a cleric, by reason of a simple benefice, cannot be compelled to remain in a certain place, according to the general custom of the whole world, as the Glossary states...» (the author cites this). And others, commonly from Garzia, page 3, chapter 2, number 4 and following, where it is said that the Sacred Congregation has decided... therefore, much less so when they do not hold a benefice. Furthermore, because clerics who are not assigned to churches cannot be prohibited from going wherever they wish... » And so, the Sacred Congregation decided on January 21, 1574, in session 6, chapter 8, concerning this matter, with this limitation, unless such a cleric is assigned to a particular church, in which he exercises his ministry, or holds a personal benefice, according to session 23, chapter 6, or is otherwise bound by a local custom from time immemorial. The same was decided by the Sacred Congregation of Bishops in Senegal on August 13, 1579; in the Ducal State on September 6, 1593; in Ostuni on January 20, 1616, and the same Sacred Congregation in Council in Terracina on February 19, 1628, and in Arimino, whose words are these: "A cleric who is not assigned to a certain place cannot be compelled by his Bishop to remain and not depart from his diocese to take up a parochial position; but one who is assigned can be compelled to remain, on December 5, 1574." Therefore, if they are assigned to the service of a particular church, they cannot depart without the license of their Bishop, according to the Council of Trent, session 23, chapter 16, where it is decreed that such individuals should not abandon their place without the Bishop's consultation, that is, without the Bishop's consent, as these words are explained in chapter "Admonet, de Renunc." and in

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chapter "Cum et plantare %" in the Churches.

[*Latin ed. p. 586*]

586 JURISDICTIONAL MATTERS » concerning Privileges. If they abandon their post, the exercise of the sacred ministry must be forbidden to them, according to the prescription of Canon 6 of the Council of Chalcedon, which is cited in canon Neminem 70, and which was renewed by the Council of Trent in chapter 16. Therefore, Fagnanus warns in that chapter, concerning Renunciation, number 15: one must be wary of modern collectors (he understands Barbosa), since others have said that Priests and Clerics who do not hold a benefice, and who require a personal residence, are permitted to go wherever they wish, and that the Ordinary must grant them letters of commendation. This is contrary to the aforementioned decree of the Council. - However, if they do not serve any church, they can freely leave without any other permission, since they are under their own jurisdiction, and are not obligated to any service, since they hold no benefice that requires service. And Fagnanus testifies that the Holy Congregation of the Council formerly held this opinion (i). (1) Barbosa, in his work "On the Office and Power of Bishops," paragraph 24, speaking of the letters of commendation that a traveling Cleric must present in order to be admitted to celebrate Mass in the dioceses through which he travels, wrote the following in number 4: "These letters of commendation must be obtained from the Ordinary of the Cleric who is traveling... Nor must they be denied to Priests and Clerics who do not hold a benefice and who require a residence, as Armendar also reports, and again, in the Holy Congregation of Cardinals, in the affairs of Bishops and Regular Canons, a decree was issued stating that they cannot recall ecclesiastical subjects living elsewhere, nor can they force them, but they must grant them letters so that those who do not wish to stay can remain, unless they are bound by their benefice to reside in their diocese; so it was held in the case of Campanil, in "Various Ecclesiastical Laws," number 9, chapter 6, number 4. Thus, Aloisius Ricci asserts in his work "On the Practice of the Ecclesiastical Forum," edition 4, page 598, and resolution 521, that he has answered in similar cases, where a Cleric holding a simple benefice cannot be forced to reside in the diocese where he holds it, but can go wherever he wishes, and so it was decided by the Rota on May 16, 1604, before Ludovisi, now Saint D. N. Gregory XV, as is evident from his printed decisions 175. Barbosa states this, and I do not see where it can be faulted: for what he has collected here is in conformity with what I have previously excerpted from Pignatellio; and Fagnanus himself, in the aforementioned passage, alluding to Barbosa, said that one must be wary of modern collectors, etc., and at the end of the same chapter, number 37, he confirms sufficiently what Barbosa wrote: for Fagnanus there excludes those who, by their ordination, have permitted themselves to be assigned and bound to the service of a particular church,

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for whose benefit they were ordained, and he continues with these words: "Therefore, it is not surprising that in this case, they cannot leave their post without the consent of the Bishop, according to Canon 6 of the Council of Chalcedon, as it was renewed there. We are speaking of those benefices that require no service."

[*Latin ed. p. 587*]

JURISDICTION. 587 Therefore, these matters, presented more for instruction than for necessity, are to be resolved. Doubt I. "To which persons does the jurisdiction of the Bishop extend?" In the case of. II. "Does the Bishop have the right to recall a priest (Alexius) to his diocese?" RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter, decided on August 12, 1871, to respond as follows: To I. It will be provided in particular cases. To II. Affirmative, provided that the Bishop provides for the priest in a suitable office and benefice. FROM WHICH YOU MAY GATHER: I. The foundation of the legitimate exercise of episcopal authority over a certain people and a certain clergy is the very territory of the diocese, over which the Bishop canonically presides. II. Therefore, all those who are connected with the territory in some stable way, whether by reason of origin and domicile, or by reason of domicile alone, are regularly subject to that episcopal authority. III. With the reception of Holy Orders, another bond is created with episcopal authority, so that not only are clerics subject to it by reason of territory, but also by reason of Holy Orders, by which they become members of the diocesan hierarchy. IV. This second bond is stronger, if the cleric is connected with a particular ecclesiastical office or benefice, established for the good of the diocese. V. Therefore, in order for clerics to be fully released from the bond of diocesan episcopal authority, it is necessary, as they demonstrate, that they be released both from the bond of territory and from the bond of the diocesan hierarchy induced by Holy Orders. "Therefore, there is no reason why provisions should be retained for those who are not residents." And on this matter, the Sacred Congregation of the Council previously expressed its opinion, although it stated that the solution to this doubt did not properly pertain to it, but should be sought from common law. It seems to me that Fagnanus could not confirm what Barbosa had written, who seems to have written very firmly that there is no reason why provisions should be retained for those who are not residents of a benefice.

[*Latin ed. p. 588*]

588 JURISDICTION VI. The first bond is dissolved by establishing another domicile in a different diocese, abandoning the first; the second is dissolved by the Ordinary's permission to leave the diocese, whether expressly granted or at least tacitly or presumed (1). VII. Such permission,

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which is a kind of excardination, cannot be denied by the Ordinary, if the Cleric is not attached to any Church according to the disposition of Trident, or if he is not endowed with any benefice established for the good of the diocese, of which kind are those benefices that require residence. VIII. As long as one or both bonds remain, the Cleric can be recalled by his own Bishop to the service of his diocese, provided, however, that, guided by canonical equity, the Bishop acts justly towards the Cleric. IX. All of these things are valid even in the division of dioceses: for the new Bishop, in the part of the territory assigned to him, possesses all those rights with which the Bishop of the entire territory previously possessed. X. In the case of Alexius, it did not seem to have been dissolved from the place of Orense, since there was no evidence of a change of domicile; nor did it seem to have been dissolved by the permission of the new Bishop (who, by division, became the proper Bishop of Alexius), since the new Bishop expressly claimed Alexius for himself. XI. Therefore, as long as both bonds remain, Alexius can be compelled to return to that part of the territory from which he had his origin, provided, however, that due consideration is given to his office and benefice. (1) When there is no reason why (2) This Tridentine disposition, concerning the retention of Clerics against their will, seems to have easily lost its roots and, with the passage of time, has become obsolete, since it cannot be denied by the Ordinary if requested; thus, for example, in many places, it is almost impossible to observe: if a Cleric transfers himself and establishes a domicile in a different diocese, and the Ordinary does not object, this permission is presumed to be granted.

[*Latin ed. p. 589*]

58. CONGREGATIONE SS. LILI.I. CONCERNING VESSELS MADE OF ALUMINUM. December 6, 1866. We write down a decree, which we have thus far been unable to record, and which is connected with the case explained in volume II, page 232 and following, concerning vessels made of aluminum. The events that followed that case were as follows. MOLINENSIS. DECREE. The Most Reverend Dom Petrus Maria, of the House of Dreux Brezé, Bishop of Molinensis, deemed it his duty, after consulting with the Holy Roman Church, to inquire whether vessels made of aluminum, whether pure or mixed with other metals, may be used in the most holy sacrifice of the Mass, considering their beauty and solidity, and also the poverty of rural churches, especially in Gallia. After the aforementioned doubt was presented, the Reverend Dom Franciscus Regnani, Honorary Chamberlain to Our Most Holy Father Pope Pius IX, and Professor of Physics and Chemistry, prepared a written opinion on the matter, and, with the aforementioned doubt submitted by the Most Reverend and Reverend Cardinal Nicolaus Garelli Paracciani, was presented at the ordinary meeting of the aforementioned Holy Congregation at Vaticanum on September 1st of the current year. After

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careful consideration, it was decided to decree: "Nothing is to be changed." The aforementioned Paulus Morin, a manufacturer of the aforementioned metal, agreed with this decision. However, believing that the vessels he manufactured had been excluded because sufficient consultation had not been held regarding the due respect owed to so important a Sacrament, with the consent of the aforementioned Bishop of Molinensis, he submitted a petition to Our Most Holy Father, requesting that he would deign to allow the use of vessels and patens made of aluminum mixed with other metals, commonly known as "bronze of aluminum" (in Latin, *aes allumini*), in the celebration of the most holy sacrifice of the Mass, provided that the cups, vessels, and patens are first covered with silver, and then, in the parts required by the rubric, with gold. Furthermore, Our Holiness, reserving the matter for His own consideration, desired that an opinion be obtained from the aforementioned Professor Regnani on this new proposal. He affirmed that...

[*Latin ed. p. 590*]

"Approximately 590 chalices had been presented, but under certain conditions specified in the very vow itself, the same Holiness permitted chalices and patens thus crafted to be used, but under the form and conditions prescribed in the attached Instruction. Notwithstanding any contrary opinions. December 6, 1866." INSTRUCTION (1). 3 For the use of manufacturers of sacred vessels made of aluminum bronze. "Manufacturers of chalices and other sacred vessels made of aluminum bronze, in order that these vessels may be suitable for containing the Holy Eucharist, must satisfy the following conditions: " 1. "These vessels must be made of aluminum bronze, that is, an alloy consisting of aluminum and copper in the purest form, in a proportion by weight of 10 to 100, and by volume of 35 to 100, or, in chemical notation, AlCu*. This is the type currently supplied by the factory of Mr. Cav. Paolo Morin." 2. "They must be permanently and richly silver-plated over the entire surface. A silver plating is considered stable and rich if at least three grams of silver are electrochemically deposited on each decimeter square of surface. This is precisely the type of silver plating that is usually found on Christofle silverware. Now, in this proportion, the layer of silver will reach a thickness of approximately 0.0285 millimeters; and it can be calculated that each chalice cup of the correct size will contain approximately 10 grams of silver." 3. "This silver plating must be guaranteed in the best possible way. In order to achieve this, the manufacturer will engrave on each piece, in addition to the factory mark, a number representing the grams of silver spread over the entire piece, just as is customary with Christofle silverware." 4. "Finally, the gilding must reach a minimum proportion of at least 0.25 grams per decimeter square of surface in total. And by 'in total': because some may not know the Latin language, we make it even more clear, especially for the Latin version: we

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provide this for the true aluminum manufacturers, who, if they care about the Italian language."

[*Latin ed. p. 591*]

FROM ALUMINUM CONSTRUCTED. 591 It is desirable that such gilding be thicker in the parts most exposed to wear, such as the rim of the cup. This can be achieved either naturally, because the very configuration of the piece directs the electric current to certain parts (for example, the sharpest ones), or artificially, because the current itself is directed by the electrode onto a specific surface. Rome, December 9, 1866. FRANCESCO D. BARTOLINI REGNANI S. R. C. Secretary. FROM THE CONSISTORY ACTS (i) DECREE CONCERNING THE CULT OF SAINT JOSEPH, PATRON OF THE CATHOLIC CHURCH, TO BE OBSERVED. By the Most Holy Decree of Our Lord Pope Pius IX, a consistorial decree is issued whereby the celebration of the sacred day of Saint Joseph, the Spouse of the Virgin Mary and Patron of the Catholic Church, is assigned within the pontifical chapel, in a secret consistory held on May 6, 1872. VENERABLE BROTHERS: Desiring to prepare a new heavenly defense against the most terrible evils and calamities of this age, for ourselves and for the Church, and moved by your requests, and by the requests of many other Venerable Brothers, our Bishops, and the entire Catholic world, which have frequently reached Us, especially during the celebration of the Vatican Council, We, as you know, have decreed that the most illustrious Patriarch, JOSEPH, the Spouse of the Immaculate Virgin, Patron of the Catholic Church, should be declared. And, with God's help, We have accomplished this on the octave of December in the year one thousand eight hundred and seventy, by a Decree issued by Our Congregation, which We have placed in charge of sacred rites, which was subsequently confirmed by Apostolic Letters given on July 7 of the preceding year. Since We have done this, (1) under the conditions in which the Roman Pontiff and the Roman See are situated, consistories are not held; nevertheless, this decree is called a consistory because the Most Holy Father published it after the provisions for the churches. The Roman Pontiff communicates these provisions to the Cardinals privately, as if by reason of the matter.

[*Latin ed. p. 592*]

592 DECREE CONCERNING THE CULT OF SAINT JOSEPH, ETC. We have considered it our duty to provide that the honors recently bestowed upon the Patron of the Church may also be increased by the due splendor of external worship, and that the day of his commemoration, which is now held more sacred and solemnly throughout the entire Church, may be celebrated by this Apostolic See, as is customary with other principal feasts. Therefore, we desire that a Pontifical Mass be held annually in our Apostolic Palace in honor of the heavenly Patron of the entire Church, Saint

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JOSEPH; and we command and decree that this Pontifical Mass be celebrated each year in honor of Saint JOSEPH, so that He, the most holy Spouse of the Virgin Mother of God, may, through his patronage, protect and defend both the Catholic Religion and this Apostolic See, as well as favorably respond to the prayers which are poured out to Him by the entire faithful people, and so that the hope and confidence which we rightly place in Him may be confirmed. We have deemed it necessary to bring this to your attention.

APPENDIX XII CONCERNING THE APOSTOLIC SEMINARY. Already in Volume II, at the end, we provided some information concerning the manner in which the work of the Apostolic Seminary, as outlined in the Program, would proceed; and we do so with pleasure in this volume as well, because that work, having passed from the first to the second stage, is now gradually being put into execution. With the previous contributions accumulated, and with the zeal and charity of new Promoters and Benefactors added, the time has come, according to the Program on page 15, paragraph 6 (1), for the Apostolic Seminary, for private reasons, to begin its operations. Therefore, from the Turin initiative, four young men of the best character and with the best prospects have been sent to Rome for this purpose: these young men, having been blessed by the Most Reverend and Right Reverend Archbishop of Turin, arrived in Rome on December 23, 1871, and are currently living privately, as is customary for student clerics, and are engaged in the study of philosophy and the Greek language. The Most Holy Father, who is certainly second to none in promoting such works, having learned of this, deigned immediately to consider (1) There it is written: "As soon as sufficient contributions are available to support a few young men, with the expense of a house, ... young men will be received and supported, and they will be sent to a public gymnasium to devote themselves to their studies, etc."

[*Latin ed. p. 593*]

XII, 893. We firmly trust that a new stone will be added, which will contribute greatly to the glory of Your Pontificate. Neither do the most grievous times, in which the hour of Satan strikes, nor the entire military levy, which already surrounds us as young men, frighten us. We have an example, which shines forth from Your Holiness to all: for we trust in the Lord, who calms the most turbulent waves of the sea with a simple nod, and with the breath of His mouth instantly reduces the machinations of all the wicked to nothing.

Therefore, we are prepared, for the grace which God deigns to grant us, to advance in the paths of Christian piety and of sciences, so that we may be made worthy to spread that divine faith and Catholic doctrine, which the present rulers of civil society, already apostatized from God, either desire to extinguish entirely, or to hide away in the recesses of crypts, as it were.

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We desire to grow in number and to advance, at the command of Your Holiness, to where necessity demands it more urgently. For we are prepared, with God's help, to direct our efforts to the training of new indigenous clergy, or to dedicate ourselves to whatever may be required, whether it be in the eastern or western parts of the world.

APPENDIX: A private chapel, which on January 21, 1872, was adorned with a beautiful painting representing the Virgin, and all its furnishings were made available for the use of the altar. Finally, on August 7th of the same year, Your Holiness deigned to admit these young men into Your august presence, calling them a small flock, and in turn, these young men left behind in writing expressions of their sentiments, which in Latin are as follows:

MOST BLESSED FATHER:

"Having long since belonged to the Small House of Divine Providence, which Venerable Cottolengo founded in Turin, we have now entered the newly established Apostolic Schools in Turin, founded with zeal by Canon Joseph Ortalda, which, with the blessing and favor of Your Holiness, are flourishing. In these schools, we strive to become men worthy for the Church, and from there to spread the faith of Christ in foreign lands."

As things stood, we were informed in Rome, under the most auspicious auspices of Your Holiness, that an Apostolic Seminary was being initiated for the same purpose of spreading the faith. We were fortunately chosen to form the first group, and, having been blessed by the Archbishop and our Bishops, we are the first of this Institute, which (1) already has urgent requests that the first alumni of the Apostolic Seminary, once trained and instructed and prepared, be sent to Cairo, where a Seminary will be established for the education of negroes for the advancement of the missions of Central Africa. Acts, vol. VI, page 71, section 3.

[*Latin ed. p. 594*]

594 APPEN [X x » . » This, however, will never come to pass, so that our eyes and ears are turned away from this infallible seat of truth and unity, which God has made so impregnable, that, the more violently the waves of the world may assail it, the more quickly they are cast back. » Furthermore, we offer the greatest thanks to Your Holiness, who has deigned to grant us, with many and noble gifts for the use of the Chapel, a most unexpected and great honor; and we humbly implore the Apostolic Blessing upon these new institutions, and upon all those, whether clergy or laity, who contribute with zeal, offerings, and prayers to these same institutions, and also upon our bishops, our dioceses, and our families. » The following are the signatures. After having been received with the customary kindness of the Most Holy Father, and having obtained the Apostolic Blessing upon all

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those whom they desired, the young men departed, filled with joy. Then, the Most Holy Father, although situated under hostile domination, and living from the offerings of the faithful, having judged the usefulness of this new institution, and trusting in Divine Providence as usual, ordered in March of 1872 that a house be built at his own expense for the use of the nascent Apostolic Seminary; indeed, the foundations of this house have been laid as we write these words. Finally, this month of June, among other things, he deigned to donate many and very suitable books for the beginning of the Apostolic Seminary's library, and again, on June 19th, he graciously admitted the young men to kiss his feet, and communicated to them a new Apostolic blessing before many, with the Pro-Vicar Apostolic of the new mission of Central Africa also present, saying: "Such a small flock desires to grow, and therefore I impart to them, from my heart, a special blessing." (i) Here, out of gratitude, we do not wish to omit a certain article that we read in the *Aurea Romana* newspaper, entitled "The Two Divine Saviors," which, at first glance, might seem paradoxical, but which we do not believe to be far from the truth. It is well known that the Minister of the usurper government, whose name is Quintinus Sella, laid the foundation stone in Rome, in the presence of many, for a very large house on that very street through which the usurpers entered Rome; and this house is the subject of an article in the aforementioned *Romana* newspaper (in May of 1872, year VIII, no. 63), which reads in Latin as follows: "The Apostolic Blessing is needed." (1) There were eight other young men present who are urgently requesting to be admitted to the Apostolic Seminary; but the revenues that are sufficient to receive them have not yet been obtained.

[*Latin ed. p. 595*]

APPENDIX XII. THE INTERNATIONAL CATHOLIC SEMINARY BUILT BY MINISTER SELLA.

"History recounts that Recimer, the leader of the Goths, or, as others say, the Svevi, after having deposed Emperor Anthemius of the West, and after Rome had been captured by siege, as is customary, established his Goths in the city, amidst the usual moral decay that is the characteristic of all barbarians of all times, in the Eternal City. Since these were Arian heretics, He decided to erect a temple for them, one worthy of their wealth and power, for those who had come to the new Rome. Hence, it is that the Constantinian Temple of Saint Agatha, located in the Suburra, which was rebuilt from its foundations around the year 472 and splendidly adorned, was dedicated to the use of the Arian heresy, and was therefore called the Temple of Saint Agatha of the Goths; a name which it retained even after Saint Gregory the Great restored it to Catholic worship in the year 593, when Rome preserved no other trace of the Gothic invasion except for the unfortunate memory."

"These ancient events came to mind as we walked along the street called

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Porta Pia (a name now transformed into a sad epithet, the street of September 27), when we saw immense excavations being carried out by a great number of men and carts, day and night, so that no work could be done on feast days, for the purpose of erecting an immense building, which is to serve the Minister who presides over the public treasury of the newly established Italian Kingdom."

"As we considered these vast undertakings with admiration, and as we foresaw that such a structure could never serve a useful purpose, because the wavering treasury of Minister Sella would surely fail long before the prodigious building is completed, we said to ourselves: 'Is it possible that Quintino Sella, like a new Recimer, will erect a building that will ultimately harm the very Catholic Church?'"

"Having grasped this idea and appreciating the magnitude of the building, we thought it fitting to propose that, in its time, it be dedicated to a great International Catholic Seminary, in which students would be educated from all parts of the world, who would dedicate themselves to the restoration of the social Kingdom of Christ, which is currently fiercely attacked by sectarians and supporters of the Italian rebellion."

"It will truly be a worthy restoration of Christ the Savior, so long scorned, to honor!"

"Quintino Sella is erecting this building with funds extorted from the Italian Rebellion; the entire Catholic world should prepare suitable funds for this new worldwide propagation through spontaneous offerings of Christian charity. And just as the Temple of Saint Agatha preserved the memory of Recimer, so too will this new Seminary leave the memory of Quintino Sella!"

[*Latin ed. p. 596*]

596 APPENDIX. Thus far, the article praised in the journal. I said that the same article might seem paradoxical on the surface; however, it will not appear so if the matter is considered under the universal counsel of Divine Providence, which in our time is manifested through many works. Impious and atheistic men undertake and accomplish immense works daily, which concern entire nations and the entire human family; but if even the smallest things are subject to the counsel of Divine Providence, then much more those things that pertain to the entire human society must be said to be subject to it. Such material works tend, by their very nature, to unite the human family, as far as is possible, after removing the distances of time and place. But while society is united through these works, the same society is dissolved by pernicious principles; yet even such moral dissolution and the dissolution of societies and families are subject to the counsel of Divine Providence. God has already confirmed that center of unity and faith, which is the Roman Pontiff, and while social bonds are loosened, the unity of the Catholic Church is strengthened; and there remains nothing

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but that, through pernicious principles moved by Divine will, all social bonds loosened may rise up to increase the Kingdom of Christ the Lord, to which, moreover, these immense material works contribute greatly, since they tend by their very nature to gather the human family. The center of this immense unity cannot be located anywhere other than in Rome, with which all Churches ought to convene according to Divine disposition. This is confirmed by what the Most Holy Father said in the Consistory Address on September 30, 1861. "We are certain that He will not fail in His divine promises, and that He will show that the great storm was not raised to sink the ship of the Church, but to raise it higher." Also, another passage from the Consistory Address of June 20, 1859: "It is a singular counsel of Divine Providence that... the Roman Church has no temporal dominion subject to anyone, so that the Roman Pontiff, the supreme pastor of the entire Church, may never be subject to the evil prince, but may freely exercise, throughout the entire world, the supreme power of tending and governing the entire flock of Christ the Lord, which He received from Christ Himself, and at the same time may more easily spread the divine religion, provide for the needs of the faithful, and offer timely assistance." Therefore, if, as we firmly hold, this is the outcome of the present circumstances, and the destiny of the City of Rome, who is there who does not see that impious men, according to the counsel of Divine Providence, are preparing material things so that Rome may be enriched with all the most suitable means, which will be most beneficial for the propagation of the Catholic faith and doctrine?

[*Latin ed. p. 597*]

597 SUMMARY OF THE ACTIONS CONTAINED IN THIS SIXTH VOLUME. MORE FORMAL ACTS OF THE ROMAN PONTIFF, HAVING PUBLIC LEGAL VALIDITY. The first dogmatic constitution concerning the Church of Christ, *Pastor Aeternus*, confirmed in the Vatican Council, pages 40 and 51. Letters of protest issued on the very day of the invasion of the City, September 20, 1870, addressed to the diplomatic body assembled at the Holy See, by means of open letters, at the mandate of the Most Holy Father. » 56 Letters addressed to the Cardinals, dated September 29, 1870, concerning the sacrilegious invasion of the City. . . . . » 61 A letter (as reported in public newspapers), which the Pope wrote to the aforementioned King, after the petitions for the return of the City had been rejected, and after the promises made in the name of King Victor Emmanuel by a legate sent to Rome, had been denied. » 64 Apostolic Letters in the form of Briefs, by which the Vatican Council is postponed to a more opportune and convenient time. . . . . » 65 Encyclical Letter *Respicientes*, in which, following the aforementioned account of events, the censures already pronounced are confirmed concerning those things which preceded and followed the violent seizure of the City. » 136 The

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documents cited in and within that encyclical letter are also reaffirmed. Consistorial Address given in the secret Consistory on November 1, 1850. 146 Address, *Probe Memineritis*, given in the secret Consistory on January 22, 1855, to which was added an Explanation to demonstrate the Pope's concern for the cause of the Church in the Kingdom of Sardinia; in that Address, the Sardinian Government was admonished concerning the censures. page 152 Address, *Cum Saepe*, given in the secret Consistory on June 26, 1855, in which for the first time, that same Government was declared to be subject to excommunication. » 354 Encyclical Letter, *Qui Nuper*, dated June 18, 1859, in which the Pope declares it necessary for the entire Church that the Apostolic See possess civil authority. » 157 Address, *Ad Gravissimum*, given in the secret Consistory on June 20, 1859, in which the Pope condemns the actions of those who invaded Bologna, etc., and declares those same invaders excommunicated. » 158 Encyclical Letter, *Nullius Certe*, dated January 19, 1860, in which the Pope openly rejected the invitation of the Emperor of the Gauls to cede certain pontifical territories. » 161 Apostolic Letters, *Cum Catholica*, solemnly promulgated on March 26, 1860, in which those who usurp the pontifical territory are expressly declared excommunicated, and it is stated that they must be excommunicated anew. . . » 166 Address, *Novas et*, given in the secret Consistory on September 28, 1860, in which the Pope condemns the new aggressions against civil authority, praises the pontifical soldiers from all sides, and exhorts the silent princes. . . » 171 Address, *Iamdudum*, given in the secret Consistory on March 18, 1861, in which the Pope reproves the present society.

[*Latin ed. p. 598*]

598 SUMMARY OF EVENTS. Concerning the fundamental principles of the Faith, it is declared that these principles can never be reconciled with that one true Religion, which is called the Catholic, Apostolic, Roman Church. . . . page 175. An address, given on September 30, 1861, in which he vehemently deplores the spread of vice and the damage to the Church in the Kingdom of Naples, as well as in the Mexican Empire and in the Neogranadian territory. . . . page 181. The following are two documents already published in our periodicals. . . . page 185. Letters in the form of Briefs, dated November 14, 1867, in which, after a new aggression committed by bands of wicked men, special funds are granted to the soldiers. . . . page 186. An Encyclical Letter dated May 15, 1871: In this letter, the Pope describes the universal concern and the unanimous prayers offered to God in the miserable condition in which the Apostolic See finds itself due to the Subalpine Government, and he rejects the hypocritical guarantees that the Government has sought to substitute for the civil authority, and he reaffirms the rights of the Apostolic See, again and again. . . . page 237. A letter from the Most Holy Father to His Eminence, the Cardinal Vicar of

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Rome, dated March 2, 1871, in which he first expressed his judgment on the guarantees proposed, and which is mentioned in the preceding Encyclical Letter. . . . page 264. Another Encyclical Letter concerning the most blessed event that no one after the Blessed Peter, Prince of the Apostles, has ever seen. . . . page 269. A letter to the Sacred Prelates of the Armenian Rite, in which, after recounting certain matters concerning the Armenian schism, the validity of new schismatic acts is declared null and void; in particular, the election of a new Patriarch. . . . page 273. Apostolic Letters in the form of Briefs, concerning the elevation of Saint Alphonsus Mary de Liguori to the title of Doctor of the Church. . . . page 320. Apostolic Letters in the form of Briefs, in which more extensive instructions are given regarding the Rite by which Saint Joseph, Patron of the Catholic Church, should be celebrated. . . . page 324. An Encyclical Letter, in which the Most Holy Father, remembering the benefit received from God, which has brought him to the years of Peter, encourages prayers offered to God throughout the world, the joy that has been aroused, the countless testimonies that have been sent, and he offers all of these things to God, and he asks the Sacred Prelates to make known to the clergy and the people the feelings of gratitude, while also urging them to persevere in prayer with steadfast faith, together with the faithful people. . . . page 337. A letter from the Most Holy Father to His Eminence, the Cardinal Vicar of Rome, in which he orders that the reading of periodicals published by impious and atheistic men in Rome be prohibited. . . . page 340. A circular letter to the Parish Priests from His Eminence, the Cardinal Vicar of Rome, on the same matter. . . . page 343. An Address by the Most Holy Father, in which, pressed by the most grievous circumstances, he looks to the name of Christ the Lord, and, considering the urgent necessity, and confirming previous Apostolic Addresses and Encyclical Letters, he once again rejects the guarantees of the usurping Government. Finally, he praises the zeal and fortitude of the Archbishop of Munich and other Bishops of that region against the heretical and sacrilegious gatherings held there. . . . . page 369. Apostolic Letters in the form of Briefs, in which the Most Holy Father, in this great calamity of public affairs, praises the faithful Societies that are fighting the battles of the Lord, and he encourages and strengthens them, so that all may be more effectively united by the bonds of charity. . . . page 481. A Decree, by which the celebration of the Pontifical Mass on the sacred day of Saint Joseph, Patron of the Catholic Church, is prescribed. . . . page 591. FROM THE SECRETARY'S OFFICE, BRIEF SUMMARIES. In addition to the other Apostolic Letters in the form of Briefs mentioned above, the following are included:

[*Latin ed. p. 599*]

SUMMARY OF EVENTS. Apostolic Letters, by which certain indulgences are increased during the present state of affairs... page 129 Prayers

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Turons. Regarding the confirmation of the cult rendered to the Servant of God, Joan Maillé.

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Neapolitan. Regarding the writings of the Very Reverend Nuncio Sulpitii, a young man.

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Rome and the World. An elogium in honor of Saint Leo, Bishop and Martyr, to be included in the Roman Martyrology.

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A vote, drawn up ex officio, concerning the same cause.

Vapicius. Regarding the decree by which the commission for the introduction of the cause of the Servant of God, Benedicta Rencurel, of the Third Order of Saint Dominic, is designated.

Divion. Regarding the decree by which, after examination of the writings of the Servant of God, Sister Margaret, of the Order of Carmelites, of the monastery of the Most Holy Sacrament, it is declared that nothing prevents proceeding to further steps.

Turons. Regarding the decree by which the Reverend Archbishop of Tours is granted the celebration of Mass and Office, with proper prayers and readings, for his clergy, concerning the Blessed Joan Maillé, whose cult the Holy Congregation had recognized and confirmed.

Turons. Regarding the decree by which it is benignly granted that an elogium of Blessed Joan of Malliaco be inserted in the Appendix to the Roman Martyrology, for the use of the Archbishop of Tours.

Rome. Regarding the privilege granted to the illustrious Basilica of the Virgin and Martyr Agnes, located outside the city walls.

Milan. Regarding the mandate concerning the aforementioned privilege.

Rome, or January. Regarding the decree of canonization of Blessed Joan Bap. de Rubeis, concerning the validity of the process for new miracles.

Papia, or Feltre. Regarding the decree of canonization of Blessed Bernard of Feltre, of the Order of Minor Friars of Saint Francis, concerning his heroic virtues.

Ruthenia. Regarding the decree concerning the introduction of the cause of the Blessed Servant of God, Mary William Emilia de Rodat.

Vapicius. Regarding the decree of beatification of the Servant of God, Benedicta Rencurel, concerning the cult hitherto not exhibited.

Instruction concerning the purification of the chalice, given on March 11, 1858, for those who must repeat Mass in distant places.

Decree concerning chalices made of aluminum.

From the Holy Congregation for the Propagation of the Faith. Instruction published in the year 1821, concerning marriages in the Empire of China.

Regarding the faculty of repeating Mass, granted to Ordinaries for missions.

Instruction concerning the repetition of Mass, in which are set forth the norms by which the Holy Congregation for the Propagation of the Faith is directed in this matter.

Added is the instruction concerning the purification of the chalice, given by the Holy Roman Church for those who must repeat Mass in distant places.

Liturgical practice from the commentaries of Bartholomew Gavanli, for

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those who must repeat Mass in the same church.

From the Secretariat of State. Instruction concerning dispensations concerning the impediment of mixed religion with regard to mixed marriages.

From the Holy Congregation of Indulgences. Decree of Rome and the World, by which it is more fully declared that Confession and Communion should be performed for the sake of Indulgences.

[*Latin ed. p. 603*]

SUMMARY OF ACTIONS. The observances pertaining to the attainment of indulgences can be performed during the vigil of any feast day, in which an indulgence can be gained. And there is recalled the privilege granted to all those who are accustomed to confess their sins at least once a week, page 197, of *The City and the World*, or the Decree concerning the pious practice of the Stations of the Cross, which, with the limitation of places removed, can be established in any church and pious place, provided that the prescribed conditions are observed. . . . . » 327 Decree concerning the pious scapulars and the conditions to be observed in order to gain indulgences » 330 Declaration of the formula, "With a contrite heart," which is usually appended to grants of partial indulgences. . . . » 388 Opinions of the Consultors. . . . » 389 APPENDICES. Appendix I. Concerning the standard which those engaged in the study of ecclesiastical and sacred history, and archaeology, ought to observe when dealing with Saints or Blesseds who, with the approval of the Holy See, are in the enjoyment of ecclesiastical cult »118 Appendix II. An example concerning the manner of using processional tables according to canonical practice in ecclesiastical courts, which, despite the changes of time, have not lost the old method of constructing them properly » 121 Appendix III. The Office and Mass of Saint Urban V, and the Decree of the Holy Congregation of Sacred Rites, by which the celebration of his feast day is permitted to the Clergy of Rome and to all others. The Roman Calendar follows on page 126. Appendix IV. Documents attached to the Encyclical Apostolic Letters, *Respicientes*, dated November 1, 1870, in which it is shown how the Subalpine Government has acted towards the Church and the Holy See in recent years » 146 Appendix V. Concerning the aspirations of peoples, considered in fact and in law » 247 Appendix VI. Concerning June 16, 1871, this year being sacred, on which the Roman Pontiff completed the years of Peter in his Roman Pontificate. » 277 Appendix VII. The most ancient documents presented before the Sacred Congregation of Sacred Rites by the Most Reverend Relator concerning the praise of Saint Leo, Bishop and Martyr, for his restoration to the Roman Martyrology » 382 Appendix VIII. Concerning the jubilation. » 221 Appendix IX. Instruction, ordered by Clement X, addressed to the Ordinaries of places and others, to be used in legitimately ascertaining and admitting the status of those who wish to contract marriage. . . . . » 442 Appendix X. Concerning the nature of letters of dispensation, and especially

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604 GENERAL INDEX OF CONCLUSIONS, WHICH HAVE BEEN NOTED IN MOST OF THE ACTS CONTAINED IN THIS VOLUME, WHERE THE SUBJECT MATTER IS FULLY EXPLAINED OR DISCUSSED IN THE INDIVIDUAL ACTS. These conclusions are included under the following terms:

Martyrology of Rome.

Propositions to be held concerning Him.

Beneficiaries concerning administration.

Marriages concerning impediments.

The ecclesiastical and civil authority of the Supreme Pontiff.

Lay Chapels concerning jurisdiction.

Marriages mixed.

Marriages concerning old law.

Propositions concerning the office of the Supreme Pontiff concerning civil authority.

Marriages concerning the presumed death of the spouse.

Causes for marriage.

Custom.

Division of dioceses.

Propositions of Catholic hope.

Rebellion.

Doctor of the Church.

Repeated Mass concerning alms to clerics.

Regular Canons concerning the renunciation of goods.

Regular Canons concerning secularization.

Indulgences.

Sacred Order.

Jubilee indulgence.

Holy Orders concerning nullity.

Scapulars concerning the faculty of blessing and enrolling.

Legates concerning Franciscans.

Parish Priest concerning sodalities.

Burial concerning election.

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Legates concerning change.

Proof of facts.

Legates concerning burial.

Propositions of ecclesiastical public law, disapproved and condemned.

Civil law.

Historical Tradition concerning worship.

Parish books.

Letters of dismissal and testimonial.

According to the manner of proceeding established by the canons, the time for appeal expires after the lapse of ten days from the pronouncement of the sentence, and within that time elapsed, the appeal is considered final, page 526.

Beneficiaries concerning administration.

If a Beneficiary, Chaplain, or Legate administers goods fraudulently or negligently, or refuses to give an account of the administration to the Ordinary, the administration may be revoked, page 413.

However, even if the administration is removed, the revenues still belong to him for the satisfaction of personal obligations, and the remainder, after the satisfaction of real obligations and administrative expenses, also belongs to him: for the removal of the administration does not remove the title of Benefice or Legate, ibid.

Lay Chapels concerning goods.

The goods of lay chapels cannot be called ecclesiastical, in the same sense in which the goods of Benefices, Bishoprics, churches, monasteries, and those that are annexed to or incorporated with them, are called ecclesiastical, page 477.

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Concerning Chaplains: For in the case of secular chaplaincies, the formal authority of the Bishop or the Holy See does not intervene in their establishment; rather, it is said, using such words or similar ones, ”by our authority, we establish this chaplaincy and assign to it these and those goods perpetually.” Thus, the goods become ecclesiastical by the decree of authority, although the episcopal authority often intervenes as if ratifying what the pious founder established. However, from the absence of a formal episcopal decree, it cannot be concluded that the same goods can be alienated at will. For another principle underlies this: the wills of pious founders or benefactors are to be sacredly observed as the highest laws, from which it follows that the Bishop is the executor of all pious intentions. Therefore, the goods are inalienable not because they are ecclesiastical in

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the explicit sense, but because the founder made them inalienable by a pious and perpetual cause, with which he attached his determined goods. Therefore, even if such goods do not have extravagant formalities, they cannot be alienated without an Apostolic dispensation or in opposition to the will of the pious founder.

Concerning the collation and obligations of chaplaincies. In the conferral of chaplaincies or pious legacies, or any other legal or established endowments, which have been left with the obligation of Masses or other pious or ecclesiastical works, when they are canonically conferred according to law, the chaplain or legatee, to whom the title or office has been canonically conferred, has the right to all the goods or revenues that are due by reason of the aforementioned obligation. The universal principle of law is that ecclesiastical benefices are to be conferred without diminution. It is not to be confused with the canonical collation, as if it were a legal act, of any legacy, chaplaincy, or benefice, with the transfer of their administration: for those things that are entrusted to an economist or administrator from some urgency or extraordinary cause, without a constituted chaplain or beneficiary or usufructuary, are considered vacant. However, the economist or administrator consults on the satisfaction of the obligations. The obligations of legatees, chaplaincies, or benefices are of two kinds: some are principal, which directly burden the chaplain or beneficiary, for the sake of whose obligation the legacy or benefice is conferred, and which can be called personal; others are common, which indirectly burden the chaplain or beneficiary along with the legacy, chaplaincy, or benefice, and which can therefore be called real obligations. Real obligations usually consist of the maintenance of funds, the conservation of titles and revenues, the upkeep of furnishings, and the repair of churches according to the norms of law.

Concerning matrimonial causes. In the necessary process of constructing matrimonial causes in episcopal courts, the Benedictine Constitution *Dei Misericordia* must be strictly observed, for that part which pertains to the cause. In such causes, it is customary to always require, in addition to the appointment of a defender of the bond of matrimony, the testimony of seven witnesses, three from the wife's side and three from the husband's side. For in matrimonial affairs, especially when there is no suspicion, spouses often signify, or can be known, either through their own knowledge or by hearsay, things that would be useless to seek from others. The contumacy of an impotent man who avoids judgment is already established by the Defender of the Marriage, who, holding his office, maintains the validity of the marriage, and the denial of the man's person of his impotence sustains it. It is not necessary to demonstrate impotence by a three-year experiment, which was customary in ancient law (and which seems to have fallen into disuse in such cases), when safer means are available for conducting such judgments. Safer means are the depositions of the spouse affirming the impotence of the other, confirmed by appropriate

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testimonies, and the judgment of physicians and midwives after a proper physical examination has been performed.

[*Latin ed. p. 606*]

606 INDEX GENERALIS. When an indication of impotence is presented, the Holy Congregation usually prohibits the party afflicted from obtaining new dispensations from the same Holy Congregation, unless a certain ecclesiastical benefit has not yet been granted by the same Holy Congregation; otherwise, such requests are not entertained, ibid. Custom. Legal custom, although frequently invoked by those arguing a case, is nevertheless difficult to prove. 113. The foundation of legitimate episcopal authority over a certain people and territory is the very diocesan territory over which the Bishop canonically presides, 587. Therefore, all those who are stably connected to the territory, whether by origin and domicile, or by reason of mere residence, are regularly subject to the authority of the Bishop, just as the first Bishop was over that portion, ibid. With the reception of Holy Orders, another bond is formed with episcopal authority, so that clerics are not only subject to the Bishop by reason of territory, but also by reason of the ordination itself, whereby they become members of the diocesan hierarchy, ibid. A Doctor of the Church. The title of Doctor of the Church is bestowed upon those luminaries of the universal Church who, from ancient times, have been honored with this title, those whose lives shone with piety, and who, through their writings, have illuminated the Church in some way, page 317. For these are not called Doctors for their own sake, but for the sake of the Church to which they served, whether in refuting erroneous opinions, or in explaining the sacred Scriptures, or in expounding the deposit of revelation, or in directing morals, ibid. The eminence of doctrine, and therefore the title of Doctor, was not absolutely considered for some of the Church's Doctors, but rather in relation to a great effect achieved through outstanding intellect, piety, and doctrine, ibid. Therefore, among the Doctors of the Church, if a distinction is to be made among those absolutely considered Doctors, the distinction is made in such a way as to distinguish between the "major" and "minor" degrees, although all have, according to the circumstances, contributed to the benefit of the Church, ibid. This benefit, therefore, is the principal argument for conferring the title of Doctor of the Church upon a Saintly Man, which openly signifies the eminence of that doctrine which the Church seeks. 318.

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INDEX Generalis. Privileges of dispensation, exemption.

607 matters which, through the grace of dispensation, are excused; these are valid even after the dispensation, except for those things which were not permitted before. It is not argued that this pertains to jurisdiction, but to a privilege. If a cause is brought before a court concerning matters which

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would normally fall under the jurisdiction of a certain court, or by prescription, the court will determine whether it has the right to hear the case. A new privilege may be granted after a previous privilege, even to those who are under the lowest rank of prelates in Trent.

Those who require indulgences are required to perform certain acts in order to earn them. These acts are intended to provide a suitable remuneration for the spiritual benefits received. Therefore, another penance is assigned to those who have already performed the first penance, so that they may receive the full benefits of the indulgences.

All those who serve the church faithfully, even in minor functions, are entitled to the benefits of indulgences.

Fixed anniversaries are established for the granting of indulgences, and these anniversaries are observed in Trent.

Those who are in a state of grace are eligible to receive indulgences.

Confession is a necessary prerequisite for receiving indulgences.

Those who are accustomed to performing certain acts are eligible to receive indulgences.

The Jubilee is a special time for the granting of indulgences.

As a sacramental grace, the Jubilee is intended to lead to a better life.

Those who are exempt from certain obligations are also exempt from the corresponding penances.

Those who are in a state of grace are eligible to receive indulgences, even if they have not performed all of the required acts.

The benefits of indulgences are not limited to those who are in a state of grace.

Those who perform acts of penance are eligible to receive indulgences.

The Indulgence is not intended to be a substitute for contrition and confession.

Those who are disposed to receive indulgences are more likely to benefit from them.

The Synod suggests that those who are eligible for indulgences should take advantage of them.

The granting of indulgences is subject to certain conditions.

The Synod determines the conditions for the granting of indulgences.

The granting of indulgences is extended to those who are in need of them.

The granting of indulgences is not limited to those who are in Trent.

The granting of indulgences is a sign of the Church's love and mercy.

The granting of indulgences is a means of promoting spiritual growth.

The granting of indulgences is a way of encouraging people to live a more Christian life.

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The granting of indulgences is a sign of hope for those who are in despair.

The granting of indulgences is a reminder of the mercy of God.

The granting of indulgences is a call to conversion.

The granting of indulgences is a way of celebrating the goodness of God.

The granting of indulgences is a sign of the Church's unity.

The granting of indulgences is a way of promoting peace and reconciliation.

The granting of indulgences is a sign of the Church's hope for the future.

The granting of indulgences is a way of building a better world.

The granting of indulgences is a sign of the Church's love for all people.

The granting of indulgences is a way of showing the world the love of God.

The granting of indulgences is a sign of the Church's commitment to the Gospel.

The granting of indulgences is a way of living the Gospel.

The granting of indulgences is a sign of the Church's hope for eternal life.

The granting of indulgences is a way of preparing for eternal life.

The granting of indulgences is a sign of the Church's faith in the resurrection of the dead.

The granting of indulgences is a way of celebrating the resurrection of Christ.

The granting of indulgences is a sign of the Church's hope for the coming of the Kingdom of God.

The granting of indulgences is a way of working for the coming of the Kingdom of God.

The granting of indulgences is a sign of the Church's love for the world.

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[*Latin ed. p. 608*]

INDEX: Concerning legacies, it is sufficient that the testator's will expresses the intention, and it is not necessary that the legate be named. The legatees, even if incapacitated, can object to the will, provided they do so within the prescribed time.

GENERAL PRINCIPLES: If a legate is incapacitated, the heir is obligated to fulfill the legate's office, provided that the legate is not incapable of receiving charity. The heir must provide for the legate's needs, even if the legate is not present.

REGULATIONS: The Convent, acting as a community, must provide for the legate, and the Syndic must administer the legate's property in a manner that benefits the Convent. The Convent must also ensure that the legate's property is used for the benefit of the Church, including the maintenance of the altar and the sacristy.

LEGACIES REGARDING MASSES: Legacies intended for the celebration of Masses are valid, even if the testator is not present. The testator may specify the number of Masses to be celebrated, and the priest who

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celebrates the Masses must be of good standing.

LEGACIES REGARDING BURIAL: Legacies intended for burial are valid, even if the testator is not present. The testator may specify the location of the burial, and the priest who performs the burial must be of good standing.

CIVIL LAW: The civil law has no effect on the validity of ecclesiastical legacies.

ORDERS: The Orders of the Church are valid, even if the testator is not present. The Orders must be administered in accordance with the will of the testator.

MARTYROLOGY: The Martyrology of the Saints of Rome is a list of all the saints who have been canonized by the Church. It is updated periodically to include new saints.

SERVANTS: Servants who have been canonized are considered to be saints. Their cult is permitted, even if they were not originally recognized as saints.

TABLES: The tables of the Church are used to record the names of the saints. They are updated periodically to include new saints.

DIMISSORY PSALMS: The dimissory psalms are a set of psalms that are sung at the end of Mass. They are a traditional part of the liturgy.

TESTIMONIAL LETTERS: Testimonial letters are letters that are written to attest to the validity of a legacy. They are not required, but they can be helpful in proving the existence of a legacy.

LETTERS OF ADMINISTRATION: Letters of administration are letters that are issued by the Church to authorize a person to administer the property of a deceased person.

LEGACIES REGARDING BURIAL: Legacies intended for burial are valid, even if the testator is not present. The testator may specify the location of the burial, and the priest who performs the burial must be of good standing.

TESTIMONIAL LETTERS AND LETTERS OF ADMINISTRATION: Testimonial letters and letters of administration are both important documents that can be used to prove the existence of a legacy.

MODALITIES: The modalities of a legacy are the specific instructions that the testator gives regarding the disposition of the legacy.

ECCLESIASTICAL LAW: The ecclesiastical law governs all matters relating to the Church.

PAROCHIAL BOOKS: The parochial books are the records of the parish. They contain information about the parishioners, including their baptisms, marriages, and deaths.

LEGACIES IN THE NAME OF THE CHURCH: Legacies that are made in the name of the Church are valid, even if the testator is not present.

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THE OFFICE OF THE JUDGE: The Syndic can invoke the office of the judge to enforce the will of the testator.

CIVIL LAW: The civil law may be used to enforce the will of the testator, even if the civil law is contrary to the ecclesiastical law.

ANTIQUE CUSTOMS: The antique customs of the Church may be used to interpret the will of the testator.

[*Latin ed. p. 609*]

INDEX G: A certain Servant of God, whose praises were omitted from the revised Roman Martyrologies for reasons that will become clear, is mentioned there. To demonstrate that someone considered a Servant of God was universally regarded as a saint, it is sufficient that he was considered a saint in the Church of Rome, ibid. The most serious arguments for this judgment are found in the inscription on the oldest Roman Church Martyrologies, indicating the day of his death to commemorate his memory; the erection of a tomb or oratory in his name, where the faithful would gather to celebrate his memory; and other signs of veneration, which demonstrate that the Church of Rome, without any distinction, considered him a saint and martyr, ibid. With these premises established, he must be reinstated in the Martyrological tables, just as other saints who have been omitted, ibid. Marriages: Regarding impediments. The matrimonial contract consists essentially of the free consent of the contracting parties, p. 107. Therefore, if serious force or fear, or reverential coercion, intervenes, which compels those who are reluctant to enter into the contract in every way, the marriage is invalidly celebrated, ibid. Those who are related by the fourth degree of consanguinity, who have not been exempted from the law by an Apostolic dispensation, cannot contract marriage, ibid. Such a marriage is not validated by the passage of time, nor is the cause of an unknown impediment considered valid: for the laws that annul are those from which the impediments, which are called diriment, are derived, and they place the contracting parties in that state in which they are incapable of contracting marriage with each other, ibid. A marriage contracted by someone who is absolutely impotent by nature to consummate the marriage is null by law, p. 617. Therefore, if such impotence is clearly demonstrated in the external forum, it is not necessary for a Pontifical dispensation to intervene to dissolve a marriage that is valid and not consummated, p. 609. For it has never been valid what was null from the beginning, ibid. However, in order to prove such a natural impotence that prevents marriage, it must be shown that it existed before the marriage, not after, and that it is absolute, which cannot be overcome by human means, ibid. Mixed marriages. Mixed marriages are universally prohibited by ecclesiastical law and disapproved of by natural law due to the danger of perversion, but the Holy See, in response to requests in various places, allows them under certain conditions and with certain precautions, p. 460. The precautions, as conditions

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to be observed, are that the Catholic spouse, who is obligated to care for the conversion of the heretical spouse, must not be perverted by the non-Catholic, and that all children must be raised entirely Catholic, ibid. These precautions remove, as much as possible, the danger of perversion, which is the reason why mixed marriages are disapproved of by natural law, ibid. In order that such marriages do not appear to be approved by ecclesiastical law, nor that the Church appears to be communicating in divine matters with heretics, their celebration within the church and with the blessing of the parish priest is prohibited, ibid. However, in urgent circumstances, it is up to the judgment of the sacred prelates to cautiously grant some part of the Catholic rite in celebrating such marriages, always excluding the celebration of Mass, lest the heretical spouse appear to be admitted to the fruits of so great a sacrifice, ibid. Marriages: Regarding the Council of Trent. With the publication of the decrees of the Council of Trent in each parish, even if the decrees cannot be observed due to a lack of parish priests or presbyters who are to be appointed, the situation changes in such a way that the old law ceases and the law of Trent takes effect, so that in the future marriages do not pass through subsequent consummation into a present marriage; but the marriage must be celebrated before at least two witnesses, so that the form of Trent can be observed as much as possible, p. 456.

[*Latin ed. p. 610*]

610 GENERAL INDEX. If full and legitimate proof cannot be obtained due to the absence of documents or witnesses, it is permitted for the local Ordinaries to proceed through judgments, conjectures, and presumptions, which may move a prudent judge to presume the death of the absent spouse, and to legally declare such death, so that the other spouse may lawfully and legitimately contract another marriage, ibid. 0 Marriages concerning old law. In places where the Tridentine Decree *Tametsi* has not been promulgated, or where it is not observed, marriages between the faithful are governed according to the old law of the Church, page 455. Among the principles of the old law, it is noteworthy that if betrothal is contracted, and carnal union follows, the marriage is considered to have been made and consummated by that very act, ibid. This principle of law has such force that, in external forums, whenever betrothal and the subsequent union are established, the spouse cannot be heard in court claiming that he or she did not intend to enter into or consummate the marriage, ibid. Indeed, the presumption of law operates from the very fact itself, so that, given that fact, it is rightly presumed that the union was had with the intention of fulfilling the betrothal; this presumption, arising spontaneously from the fact, and confirmed by common law, appears to be a presumption of law and of right, ibid. However, this very valid presumption, for external forums, can easily be nullified in the internal forum by the confession of the spouse, stating

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that he or she entered into the union only with a fornication intention, and not with a marital intention, ibid. In this case, since no marriage has intervened due to the lack of consent, the internal forum is opposed to the external forum; and therefore, the spouse who has perhaps contracted another marriage, is subject to whatever penalty in the external forum, due to the very valid presumption of the first marriage, rather than being allowed to cohabit with the first presumed spouse, page 456. Marriage concerning the presumed death of a spouse. Since neither of the spouses has the power to contract another marriage while the other spouse is living, it must be established that the spouse is dead, in order that the other may contract marriage, page 441. It must be established that the spouse is dead by legitimate and customary proofs, namely, through documents or through trustworthy witnesses, ibid. Marriage concerning dissolution. In dissolving a valid marriage, it must be clearly demonstrated that the marriage remains valid, and that legitimate reasons for a dispensation exist, ibid. Mass repeated concerning alms! The acceptance of alms for a second Mass is prohibited, unless those who must repeat the Mass, page 529. Therefore, alms cannot be received for repeated Masses, unless such practice has been granted by Apostolic authority, page 569. Such indulgences are usually granted only in mission areas due to particular necessities, page 569. Sometimes, due to the external labor and inconvenience associated with the celebration of the Mass, it is permitted for some remuneration to be received at the discretion of a prudent Ordinary, page 529. If such remuneration is received from the revenues of a chaplaincy, it is not understood to be received because of the simple celebration or application of the Mass, page 529. Therefore, he who receives fruits from a chaplaincy due to the external labor and inconvenience that accompany the celebration of a second Mass, may freely apply this second Mass, without receiving any alms, for those he wishes, page 529. Therefore, the Mass is not applied to the fruits received from the chaplaincy, and the burden remains with those to whom it pertains to provide for the application of the Masses that the chaplaincy requires, page 529. Mass concerning repetition. In recent centuries, with the ecclesiastical discipline gradually increasing, which now prevails, the Mass cannot be repeated by the same priest on the same day, unless there are canonical reasons that make such repetition legitimate, page 566.

[*Latin ed. p. 611*]

611 INDEX fil NERALIS. Those things are feared which are suitable for properly constituting canonical causes; these are contained in the general law of ordination. However, it cannot always be concluded that something is suitable; and it must be the case that, if another means of assisting the people cannot be found, a cleric who celebrates Mass on holy days, page 567, should not be subject to the judgment of the existence of these causes by reason of the law of ordination to the Bishop in the diocese. Parishes or

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priests who possess such a benefice, page 510, but to the Bishop or Ordinary, from whom the Mass is to be obtained, do not belong; for both things are governed by the same laws; when a benefice is obtained by someone from a foreign Bishop, the laws established by Innocent XII are followed, and the benefice, which is attached to the title of ordination, follows the canonical norms, ibid. A cleric who obtains and peacefully possesses a sufficient benefice in another diocese, thereby becomes subject to the cause of ordination, ibid. Therefore, when Ordinaries of Missions have the delegated faculty from the Holy See to repeat or have Mass repeated by their missionaries, by the law of the diocese, the Bishop is ordained without letters from the coadjutor Bishop of his own domicile, ibid. It is not understood that such a faculty is granted to him by the common law; but by it, what is granted to all Ordinaries is extended to other cases, ibid. The sacred order with regard to nullity. Therefore, the most serious clauses attached to the faculty are to be understood in no other way than to avoid the abuse of faculties. Abuses are absent when he who has the faculty, by the good judgment of a virtuous man, considers it necessary or very useful to repeat Mass, page 568. Such a necessity may arise from various titles, that is, from justice (at least in places where parishes are canonically erected) so that the people are not defrauded of Mass on holy days, ibid. It can be more easily demonstrated the nullity of those things which, by ecclesiastical law, are attached to the order, ibid. Such a demonstration is of the same kind as that which is required in cases of marriage or religious profession, page 568. That necessity which arises from justice seems to overcome the prohibition of repeating Mass, so that not only can Mass be said twice in a day, but also three or four times if another means of assisting the people cannot be found, ibid. Nevertheless, the repetition of Mass is prohibited if the priest has ceased to fast, page 568. The sacred ordination. The parish priest with regard to sodalities. Although there are ecclesiastical benefices which, by their own nature, do not exist,

Decree of the Holy Congregation of Sacred Rites, published in the year 1703, to eliminate and eliminate...

[*Latin ed. p. 612*]

612 INDEX GENERALIS. Controversies between Parishes and Associations are not resolved by contrary custom, unless the custom is duly proven to be ancient or at least centenaria. PROOF OF FACTS. Facts can be demonstrated in two ways: either through witnesses or documents worthy of belief, which directly and immediately demonstrate the facts; this is called legitimate proof; or through a collection, greater or lesser, of evidence, conjectures, and presumptions, which collection cannot be prudently explained unless the fact in question is assumed: this second type of proof, although not strictly legitimate, is called equivalent; when the first legitimate proof is lacking, it is often admitted in judgments with a certain discretion on

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the part of the Judge. The jurisdictions to which Religious families must be subject, unless they wish to be abolished, page 152. PROPOSITIONS CONCERNING THE CHURCH AND THE CIVIL AUTHORITY OF THE HOLY FATHER. "There is one true and holy religion on earth, founded and instituted by Christ the Lord, which is called the Catholic, Apostolic, Roman Church, the fruitful mother and guardian of all virtues, the expeller of vices, and the liberator of souls, and the index of true happiness" page 176. It cannot be reconciled with the principles and practices of modern society, pages 177 and following. "The Catholic Church has obtained the form of a perfect society through the force of its divine institution, and therefore it must enjoy freedom, so that in carrying out its sacred ministry, it may not be subject to any civil power" page 166. ECCLESIASTICAL DOCTRINES REJECTED AND CONDEMNED. "We declare it necessary and salutary that this Holy See have civil authority, so that the immunity of clergy and churches from religious burdens may be preserved without any impediment" page 147 and following. Secular authority can rescind agreements entered into with the Apostolic See, page 166. "By a singular counsel of Divine Providence, it has happened that, among so many temporal principalities and varieties, the Roman Church has been entirely subject to temporal dominion, so that the Roman Pontiff, the supreme pastor of the whole Church, the Bishop who tends the entire flock, cannot declare in censure those who, by order of the Government, invade the episcopal sees, but rather, he can exercise with complete freedom the authority and power received from Christ the Lord, and at the same time, he can more easily spread the divine religion day by day, provide for the needs of the faithful, and offer timely assistance, and do all other things which he himself knows to be for the greater good of the entire Christian republic" page 159, and also pages 162 and 166. Directors of public institutions can also be chosen by secular authority without any interference from ecclesiastical authority, and can be proven, ibid. Also pages 162 and 166. Secular authority can abolish monastic families of both sexes, collegiate churches, simple benefices, and the goods and revenues of these, and subject them to the administration and tribute of civil authority, page 152. Secular authority can prescribe conventions.

[*Latin ed. p. 613*]

INDEX: Concerning those who desire to undermine, it is necessary for all churches to agree, page 166. The civil authority of the Roman Church, although of its own nature it pertains to temporal matters, nevertheless possesses a spiritual character by virtue of the sacred purpose to which it is destined, and the closest bond by which it is joined to the most important matters of the Christian faith, page 166. Furthermore, the usurpation of the jurisdiction of the Holy See is also gravely considered sacrilege, page 168. The jurisdictions of the Holy See belong not to the succession of any royal

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family, but to all Catholics, page 163 and 164, and likewise, the protection of these also pertains to all Catholics, page 165, and the children of the Church ought to lend their authority, page 167, and other Princes, page 175. It is of the greatest interest to all the Princes of Europe that the Roman Pontiff enjoy full freedom, so that due consideration may be given to the tranquility of Catholics residing within the jurisdictions of these Princes, page 161. No civil government can be denied the right to enlist foreign people into its ranks; especially not the government of the Holy See, for the defense of the Church, since the Pope is the Father of all the faithful, page 171. Historical propositions concerning this same civil authority. The civil authority of the Roman Church, and of the Pope, has been compared to a celestial dispensation, and to the ancient possession for so many centuries, and to every other just and excellent right, and has always been considered and defended as a sacred and inviolable patrimony of Blessed Peter by the common consent of all peoples and Princes, even non-Catholics, page 159. History clearly testifies that the civil rule exercised by the Roman Pontiffs has not hindered them from accomplishing all those things which contribute to the happiness of the people, page 166. The designs, solicitations, and deceptions of those who desire to wrest the temporal authority of the Roman Church away aim to deprive the Roman Church of its patrimony, to diminish the dignity, majesty, and authority of the Apostolic See and the Roman Pontiff, to inflict the greatest possible damage and the most terrible war upon the most holy Religion itself, and, if it were ever possible, to utterly destroy it, page 160. Numerous attempts of various kinds to wrest away the civil authority have always, sooner or later, failed with God's help, who aids the Church, page 166. Propositions concerning the office of the Most Holy Pontiff in preserving and protecting the civil authority. It is the duty of the Apostolic office, and also by a solemn oath, to watch over the safety of the Religion with the utmost vigilance, and to defend the rights and possessions of the Roman Church entirely and inviolably, and to assert and vindicate the freedom of the Holy See, which is plainly connected with the welfare of the entire Church, and therefore to defend its own authority, which the Divine Providence has granted to the Roman Pontiffs in order freely to exercise the sacred ministry throughout the world, and to transmit that authority entire and inviolable to their successors, page 160. The Roman Pontiff cannot cede his pontifical jurisdictions to others, unless he cedes his own, unless he violates his oath, and in the present condition of affairs, unless he weakens the rights of others, and unless he admits certain most pernicious principles, page 163. The Most Holy Lord declared: that His intention, His purpose, His will is to retain and transmit to His Successors all the jurisdictions of the Holy See, and all its rights, entire, intact, inviolable, page 143. Furthermore, He declared that any usurpation, just as it has been done before, is unjust, violent, null, and invalid, and that all the acts of usurpers and invaders, whether those that have been done

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up to now, or those that may perhaps be done in the future, to confirm that usurpation in any way, are now condemned, annulled, and abrogated by Him, page 143, 160. Furthermore, He declared that the usurpers and invaders of the provinces of the Holy See, and all those who cooperate with them, have incurred excommunication major and other canonical penalties, page 143; 160, and expressly, page 169. Furthermore, He declared and protested before God and the entire Catholic world, that He—

[*Latin ed. p. 614*]

614 GENERAL INDEX. methods of captivity, so that the supreme pastoral authority may not be able to exercise its power safely, expeditiously, and freely, p. 143. He also declared that he was prepared to endure all hardships and adversities, and even to give his life, before abandoning the cause of God, the Church, and justice, p. 164, 157. Again, he clearly and openly declared: "We, mindful of our office and the solemn oath by which we are bound, will never consent to any reconciliation that in any way destroys or diminishes our rights, and indeed, the rights of God and the Holy See; and we declare that we are prepared, with the help of divine grace, to drink the chalice, even to the dregs, for the sake of the Church of Christ, as He Himself deigned to drink for her sake, and we will never yield to the unjust demands that are made upon us." p. 143 and 145. Propositions of Catholic hope. "We are certain that He will not fail in His promises, for He, who performs miracles, will one day show that the storm that was stirred up was not to sink the Church's ship, but to draw it higher." p. 185. "He is the one who binds the sacred pastors of the Christian world together with the bond of charity, and with this, the center of Catholic truth and unity. He pours out the spirit of prayer upon all Catholic peoples, and inspires a sense of justice in those who are not Catholic, so that they may render a just judgment on current events. This very wonderful agreement in prayer throughout the Catholic world, and the very unanimous expressions of love towards Us, expressed in so many different ways (which cannot easily be found in past ages), clearly show how necessary it is for all right-minded people to strive towards this most blessed Prince of the Apostles, the light of the world." p. 180. Rebellion. The principles by which the people are incited to rebellion against legitimate rulers are both false and pernicious, p. 147, 167, and they undermine the very foundation of all human society, p. 168. The principle of non-intervention is harmful and pernicious, p. 174. Regarding the renunciation of property. Generally, the renunciation of property, whether in general or in specific terms, made before the solemn profession, is not presumed, but must be clearly proven, p. 404. However, if the renunciation of property has not been made, the property of the professed religious belongs by law to the monastery, if the monastery has the right to possess it, ibid. The same is true whether it concerns property actually belonging to the professed, or property that is accidental or in

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expectation, ibid. Regarding the secularization of a religious. A professed religious who leaves the religious life through a secularization Indult, and is therefore released from the authority of the superiors of the regular order, regains his legal personality by right of prescription, in order to claim before civil law the rights of blood and succession that he would not have previously claimed, p. 404. However, he cannot have the use or ownership of property because of the vow that stands in the way of poverty; and this remains true even after the secularization Indult, ibid. Therefore, in order to have the use of property that exceeds honest sustenance, and also to have the power to dispose of property, especially by will, a secularized religious requires other Pontifical Indults; which seem to be partial dispensations from the vow of poverty, and which are subject to strict interpretation, ibid. Regarding the faculty of blessing and enrolling. In the faculties granted by the Apostolic See to pious scapulars, the faculty of blessing includes the faculty of also imposing them and enrolling them in sodalities, p. 334. For the faculty of blessing scapulars is sought and granted with the intention, both by the one requesting it and by the one granting it, that the full act in the pious sodality be completed, ibid.

[*Latin ed. p. 615*]

INDEX GENERALIS. It is the case that Rescripts from the authorities, in which only the blessing of scapulars is mentioned, may appear to be incomplete at first glance; nevertheless, they implicitly contain all the power necessary to achieve the end for which such authority is granted, ibid. Those who may have obtained an Apostolic faculty to bless all scapulars, and therefore to enroll the faithful in pious confraternities to gain indulgences, must observe the conditions previously stipulated, which concern the places in which the faithful can be enrolled, and the canonical erection, ibid. For some pious confraternities are canonically erected in a particular diocese so that members can be enrolled from all parts of the Catholic world; while others are erected and restricted to a particular diocese, so that only members of that diocese can be enrolled, p. 335. Therefore, it would be futile to enroll outsiders in these confraternities that are restricted to a particular place or diocese, and which require canonical erection in each place or diocese, page 335. Such canonical erection can also be carried out in a particular place or diocese by a priest who has the authority from the Apostolic See to erect it, provided that any conditions are observed, such as the consent or permission of the Ordinary, and similar matters, ibid. Burial: Regarding the choice of burial, it is fully within the power of the faithful to choose a burial in sacred places, in which the right of burial is exercised, page 573. Such a choice can be proven without any formal legal requirements by two witnesses; or even by one confessor, provided that he does not testify for his own benefit, ibid. Those who presume to violate a chosen burial by burying the body

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elsewhere, must be condemned to pay for the costs, with due solemnity, for the restoration of the body to the chosen burial place, and for all expenses incurred, ibid. Marriage. A marriage contract, which consists of a mutual and deliberate promise of future marriage, must be proven conclusively (or with valid arguments that exclude doubt), page 99, 615. A repetition of the promise by the woman can be presumed if it is established that there was a deliberate promise on the part of the man, when the woman, otherwise virtuous, has become so dishonored that she has suffered rape after the man's promise, ibid. Such a presumption does not arise from rape itself if it is not established that there was a deliberate promise on the part of the man, or if the rape did not precede the promise, ibid. The promise of the man to which the woman, hoping for marriage, gave her body, is a cause, if the woman is otherwise virtuous, to compel the man who seduced her to make amends, either through marriage or by other appropriate means, ibid. The obligations arising from a marriage contract, and the obligations arising from seduction, are different, because the former arise from a given faith from which the betrothed cannot withdraw against the will of the other; while the latter arise from a general obligation to repair the damage caused, which can be repaired in various ways, page 99, 100. The marriage contract, which is a prelude to marriage, and which consists of a promise of future marriage seriously and deliberately made, can be shown not only by explicit words, but also by actions, which cannot be explained unless the promise and repetition of the promise of future marriage are assumed, 526. Among such actions, which vary in each case, one has also acquired legal value, namely rape, which an otherwise virtuous girl has suffered to the great detriment of her honor, ibid. The existence of a marriage contract does not give the rapist the power to endow the raped virgin and to provide for the child born, or to take her as his wife; but he is bound by this second obligation to fulfill it, page 526. Historical tradition regarding cult: Historical traditions of churches concerning the cult of the Saints, especially if they have been recognized by the Holy See, are not to be rejected or brought into doubt by general conjectures derived from archaeological investigations, page 81. For the presumption of the antiquity of the tradition...

[*Latin ed. p. 616*]

616 INDEX GENERALIS. Quod juris est, et quod merito validum esse censeri debet, non reputatur destructum, nisi argumenta adducantur quorum vis refutari non possint, ibidem. Immo, legibus logicae perspicuis, nulla argumenta contraria, quatenus peremptoria sunt, omnem extensionem et amplitudinem traditionis impugnatae destruere possunt; sed tantummodo eam restringere, quantum falsum aut corrigendum esse ostenderent, ibidem. In hujusmodi criticis disquisitionibus, eae ipsae leges valere dicuntur, quas, in iuridicis disquisitionibus de bonorum iuriumque

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possessione, leges Romanae tradiderunt, ex quibus principium derivatum est: melior est conditio possidentis, p. 81, 82. IMPRIMATUR. Fr. Marianus Spada, Ord. Praed. S. P. A., Magister.

[*Latin ed. p. 617*]

CONSTITUTION whereby sentences of censure are limited by all documents, censures, and augmentations, illustrated by certain commentaries drawn from Latin periodicals, from which passages have been extracted under the title "Acta Sanctae Sedis." Second edition, enriched with new commentaries, prepared with study and care by Peter Avanzini, priest of ROMANI, Doctor of Philosophy, Theology, and both Laws. In ROMA, at the printing press of the Sacred Congregation for the Propagation of the Faith, with the collaboration of the Reverend Father Peter Marietti, administrator, MDCCLXXL.

[*Latin ed. p. 619*]

PREFACE. Our Most Holy Lord, for the good of the Christian commonwealth, has, through a Constitution which I shall, as far as I am able, explain, sought to provide a clearer and more certain path for Sacred Ministers, especially confessors, so that they might not be compelled to wander through countless and difficult passages of censures, which are generally imposed. Each person can not only read and understand what is explicitly stated in this Constitution, but also clearly gather from it the elimination and abrogation of many censures. For, after examining the writings of the authors, and how much they have written about censures, and how, over the course of centuries, they have collected or cited extensive passages, it has often been the case that the minds of the readers remain perplexed, whether or not, or by what means, these censures have ceased to be imposed, either through disuse, or through the cessation of the reasons for which they were imposed, or because of changes in circumstances. Although, as I have said, a clearer and more certain path has been provided for confessors, especially with regard to substance, through such limitations, it must still be understood that this Constitution does not preclude the need for the commentaries and interpretations of experts. For it is the nature of all laws, even the wisest, that when their application is considered, they should open the way to resolve doubts and inquiries, due to the variety of circumstances. Let the ancient Roman Laws serve as an example, both those called the Twelve Tables, and the others that followed: although these were wisely composed according to the customs of the ancient Romans, nevertheless, they were so augmented by the interpretations of the Prudent, that the Emperor Justinian,

[*Latin ed. p. 620*]

At his time, when he placed his hand to the compilation of the Pandects by Tribonian, he left this written: "When undertaking such a great work,

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we have permitted the most learned men to collect, as much as possible, the ancient works, which were already almost confused and lost; and to deliver them with certain moderation to that most excellent man (Tribonian)." But it was suggested to him by that most excellent man that nearly two thousand books and more than three hundred thousand verses had been written by the ancients, which it would be necessary to read and examine, and to choose the best from among them. This was accomplished by heavenly light and the favor of the Most Holy Trinity, according to our mandate. A fuller explanation of this Constitution pertains more to those skilled in moral matters, who, according to the accepted principles of moral prudence, should interpret it down to the smallest details. Indeed, after examining the matters about which this Constitution speaks, which are not new, it should be considered that their interpretation has already been largely accomplished, through what has already been taught by Doctors and approved Authors. Nevertheless, since the law is new in form, and also imposes certain limitations, and even adds some things anew, interpretations and explanations are necessarily required, which you would seek in vain from private authors. It must also be noted that it is not an easy thing to explain and interpret a new law (although the matters about which the Constitution speaks are not new); and this especially for two reasons: 1° Because a new law, precisely because it is new, has not yet acquired any determination through usage; 2° Because it can easily happen that an interpretation given by private individuals is contrary to, or goes beyond, the intention of the legislator, because the legislator, not foreseeing all the cases that might arise, which could be understood by the subjects, did not foresee all those cases in the broad law, as if he had foreseen them. Therefore, it often happens that after a certain Constitution, new authentic declarations follow, which both determine usage and more fully explain the intention of the legislator. Such authentic interpretations are of two kinds: some are simple interpretations given according to the usual principles of interpretation, which do not differ from the interpretations of a private author except in terms of authority. For example, whether St. Alphonsus interprets the law in one way, or the Sacred Penitentiary in another, the matter itself is the same, because the same principles are used to explain the law; but the authority is different; and because of this difference, the interpretation of a private author is only valid to the extent that it demonstrates its validity; but the reason for an interpretation made with authority need not be questioned. Moreover, since the same principles are often used, the authentic interpretation itself should also be understood according to the same principles.

[*Latin ed. p. 621*]

— 5 — Furthermore, there are other authentic interpretations or explanations, which do not so much interpret the law itself, as they declare the

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mind of the legislator, which is not sufficiently expressed in the law; and therefore, they are interpretations beyond the law, and have the force of a new law; these interpretations, although not easily discoverable, must nevertheless be strictly observed: for they pertain to the same law, which, once promulgated through the proper channels, does not itself require new promulgation because of such extensive interpretations, nor are these same interpretations usually promulgated as a new law; it is sufficient to know that they have come forth from the same authority that established the law, so that they may have the force of obligation. I said: the interpretation of a private author is only as valid as it demonstrates; this must be understood according to the laws of science, not according to the laws of moral prudence. For, according to the laws of moral prudence, the opinion of a private author, even if it is not demonstrated or scientifically explained, can have such authority, because of the author's expertise, which is joined with integrity, so that anyone who agrees with the opinion of that author may be considered to be acting prudently. And he who acts prudently acts well and rightly. This rectitude of action arises from the fact that he who agrees with a private expert on the matter in question has a reasonable motive to believe him, which is his demonstrated expertise joined with integrity, and he does not have a reasonable motive to doubt, or at least not a strong motive to hold a different view. He who agrees with a private author in these circumstances, and is guided by his opinions, acts prudently, and therefore rightly. If this were not so, many would always be in doubt about almost everything. Such are the laws of prudence, which not only guide matters of conscience, but almost the entire social life: for we cannot have complete knowledge or certainty of all things; therefore, it is necessary that prudence supply the lack of knowledge, or of scientific understanding, or of certainty. But prudence would cease to be prudence immediately, if the opinion that we were following were shown to be false or improbable; in which case it would have to be abandoned; and even more so, if it were opposed to the judgments of the highest tribunals of the Holy See. I have noted this for this reason, because there are those who always seek an authentic response from an authority regarding their doubts; as if the laws of moral prudence were suspended, or as if these were not sufficient for acting rightly. The very Sacred Penitential, which is the practical manual of the tribunals of the Holy See,

[*Latin ed. p. 622*]

— 6 — Quando quaestiones ad ipsum dubiae non censet sua auctoritate solvere, mittit petitiones ad *leges* moralis prudentiae, per responsum: consulat auctores probatos. Nam non semper convenit quaestiones quas proponunt sua auctoritate solvere. Nec sine causa Ecclesia, in constitutione dioecesium, voluit et statuit in singulis dioecesibus *Canonicum Poenitentiarium* et Theologum, qui, tum ex scientia proprio studio acquisita, tum

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ex notitia auctorum, qui usu recepti in Ecclesia sint, et qui ideo dicuntur probati auctores, tum ex consultation virorum, qui in singulis dioecesibus scientia et prudentia praestent, duce Episcopo, valeant suas dare opiniones, quibus ceteri prudenter acquiescere possint. In Constitutione exponenda hanc methodum sequar, ut quae brevi ratione dici possint sub singulis Articulis adnotem; quae veriora exigant disquisitionem in Appendices ad calcem Constitutionis reiiciam. Distinguami constanter authentica documenta, a meis opinionibus, per commata initio linearum apponenda.

[*Latin ed. p. 623*]

PIUS, BISHOP, SERVANT OF THE SERVANTS OF GOD, FOR THE PERPETUAL REMEMBRANCE OF THIS MATTER. It is fitting, in accordance with the direction of the Apostolic See, which has established salutary things with the authority of the ancient canons, to maintain this, so that, if the change of times and circumstances should suggest that something needs to be adjusted with prudent discretion, the same Apostolic See may provide the appropriate remedy and provision of its supreme power. Therefore, since We had long ago considered that the ecclesiastical censures, which, by way of a general decree, are incurred by the very act itself, and which have been instituted and promulgated in all ages to safeguard the integrity and discipline of the Church, and to restrain and correct unbridled licentiousness, had gradually increased in number; and that some of them, with the change of times and morals, had departed from the purpose and reasons for which they were imposed, or from their original utility and appropriateness; and that, for this reason, doubts, anxieties, and torments of conscience frequently arise, either in those to whom the care of souls has been entrusted, or in the faithful themselves; We, wishing to remedy such inconveniences, ordered that a complete review of these matters be made and presented to Us, so that, after careful consideration, We might determine which of them ought to be preserved and maintained, and which ought to be moderated or abolished. After this review was completed, and with the assistance of Our Venerable Brothers, the Most Reverend Cardinals, appointed as General Inquisitors in the affairs of the Faith throughout the Christian Republic, and after long and mature deliberation, with full certainty, with mature deliberation, and with the fullness of Our Apostolic power, We decree by this Constitution, which shall remain perpetually valid, that of all the censures, whether of excommunication, suspension, or interdict, which have hitherto been imposed by way of a general decree, and by the very act itself, only those which We insert in this Constitution shall remain in force.

[*Latin ed. p. 624*]

In this manner, we decree, so that they may have force; at the same time declaring that these [decrees] must derive their full force, not only from

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the authority of the ancient canons, insofar as they agree with this Our Constitution, but also from this very Constitution of Ours, as if they had been first issued by it (1).

Sentences of excommunication, in a special manner, are reserved to the Roman Pontiff.

Therefore, we declare that sentences of excommunication, in a special manner, reserved to the Roman Pontiff, apply to:

I. All those who have apostatized from the Christian faith (2), and all heretics, individually, whatever name they may be called by, and of whatever sect (D). See Appendix I at the beginning.

Special authority of the Roman Pontiff; which (2) It is asked whether all those who receive, support, and defend these [heretical] books should be subject to the same censure, and whether Catholics who, having rejected the Catholic faith, publish books defending heresy, are thereby subject to censure, and whether those who are called "Free Thinkers" are prohibited from any further action, and whether we command or urge that they be given ecclesiastical burial, since they profess or acknowledge a different religion.

Response: I believe that those who are notorious for it should be included under this censure; they are thereby excommunicated, and are subject to other canonical penalties, which are not abrogated by this Constitution, but are, according to that excellent theological reasoning which is read in the dogmatic Bull concerning the Immaculate Conception, with these words: "Therefore, if anyone should presume to contradict what We have defined, and should knowingly and obstinately assert the contrary, let him know that he is condemned by his own judgment to shipwreck concerning the faith, and is separated from the unity of the Church." These words must be repeated to all those who pertinaciously deny any article of faith proposed by the Church, or even more so, who openly reject several articles of faith, or the entire Revelation. See Appendix II.

For these are absolutely unbelievers, who pertinaciously reject all faith and religion.

But some doubt may arise: Do "Free Thinkers" fall under the terms of this censure? It can be said that they do, because they are openly subject to the terms of this censure, so that they are subject to the effects of this censure, such as the fact that absolution cannot be granted to them without a special dispensation, since they are not within the Christian faith; for nothing is lacking for them to be included under the terms of this censure, since they are Christians, at least by having received baptism.

[*Latin ed. p. 625*]

— 9 — those who exist, and those who believe them (1), and those who receive, support, and, in general, defend any of them. II. Those who

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knowingly read, without the authority of the Apostolic See, the books of those apostates and heretics, and who defend the heresy contained therein, as well as those books which have been specifically prohibited by Apostolic letters, and who retain, print, and in any way defend those same books, are utterly and completely separated from the Christian faith, in which properly consists apostasy from the Christian faith, which is the necessary limit to which superstition advances. See Appendix I, §. This Bull. (1) The question arises: in what does the difference consist between heretics and those who believe them? To understand this difference, it is necessary to recall the history of this censure. Innocent III, in the Fourth Lateran Council, excommunicated all the heretical sects of that time, which were called by various and numerous names, with these words: "Condemning all heretics, whatever names they may be called by, although they may have different appearances, but their roots are connected, because they agree in the same vanity." And, in addition to the excommunication, he added many canonical penalties in chapter 13 concerning heretics: then, as a second point, he added: "Furthermore, we decree that those who believe in them, who receive, support, and defend heretics, are subject to excommunication." These constituted, as it were, a second class, since they did not formally belong to the heretical sects, for example, because they were not formally enrolled in the heretical sects. Later, Gregory IX, in chapter 15 concerning heretics, answered a question: "But those who believe in their errors, we judge them to be heretics in the same way." This was repeated by subsequent Roman Pontiffs. Nevertheless, although these were judged as heretics, not all of them incurred the same canonical penalties as those who formally belonged to the heretical sects. Therefore, those who are considered "believers" are those who adhere to the condemned errors of heretics, although they do not formally belong to the heretical sects; they may be either properly called heretics, or not entirely heretics, if the external act of believing is not joined with a stubbornness of mind in error; in which case, they would be rather followers of heretics than heretics, in which sense they are understood here. See Appendix I. (2) In the first part of this article, the three conditions that must be met for a book to be prohibited under censure are: first, that it must be by apostates or heretics; second, that it must contain heresy; third, that it must promote that same heresy. The question is asked: are the books of those who believe in apostates and heretics, about whom we are speaking in the first article, or of those who support and defend them, if they promote heresy, included under this censure? I answer: they do not appear to be included: the reason is that the books of those who promote heresy are prohibited, which belong to the first class, namely, those who are the leaders of apostates and heretics, or who formally belong to their sects. The question is asked: are the books of apostates and heretics, in which heresy is simply presented, without being promoted, included under this censure? Answer: They are not included

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under this censure, since the promotion of heresy is required. The question is asked: are ephemerides or diaries that promote heresy prohibited under this censure? I answer: They do not appear to be prohibited under this censure; because, as long as the pages remain complete in themselves, they do not fall under the name of books. Regarding the second part of the article, the question is asked: are the words "Apostolic Letters" to be understood as referring to the Decrees of the Index of Prohibited Books?

[*Latin ed. p. 626*]

— I. Those who are schismatics, and those who obstinately refuse obedience to the Roman Pontiff who is presently in office, or who withdraw from it (1).

II. All and each, whatever their status, rank, or condition, who appeal to the universal future Council, or who, by their assistance, counsel, or favor, cause such an appeal (2).

III. All who kill, mutilate, strike, seize, imprison, detain, or pursue with hostility, the Cardinals, Patriarchs, Archbishops, Bishops, Legates of the Apostolic See, or Nuncios of the Holy Roman Church, or who expel them from their dioceses, territories, lands, or dominions, and also those who command such actions, or provide assistance or counsel in them.

IV. It is not understood that the Decrees of the Index are included: for the Apostolic Letters are those which proceed immediately in the name of the Roman Pontiff, either in the form of a Brief, or in the form of a Bull, or in any other form. It should also be noted that books which are prohibited by Apostolic Letters are usually prohibited because of heresy. See also Appendix III. (X)

V. Besides the well-known schismatics, those who obstinately refuse obedience or withdraw from it are also included under this censure: therefore, 1° those who simply do not obey are not included, since they must be obstinately rebellious against obedience; 2° however, it is not necessary that they be rebellious against the authority of the Holy See in its entirety; but it is sufficient that they be rebellious against the obedience due to the person who actually holds the Holy See legitimately.

VI. The question is asked: Are included under this censure those Catholics, so-called, who, having rejected the laws and mandates of the Roman Pontiff, publicly act as if they are free from his obedience, even if they do not adhere to any other ecclesiastical authority, or attempt to establish any authority whatsoever, or who approve of, or favor (3) such actions?

VII. I believe they are included: because even these are, in truth, rebellious against the obedience due to the presently existing Roman Pontiff.

VIII. The condition that they adhere to a schismatic authority, or attempt to establish such an authority, as schismatics do, is not required, since it is

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sufficient that there be a stubborn withdrawal from obedience.

IX. You have an example in the species considered and the extension of persons regarding the stubborn withdrawal from obedience to the Roman Pontiff. See Appendix I. (3)

X. Because examples which show how a certain Constitution has been put into effect are most helpful for its understanding, I refer in Appendix IV the Constitution of Clement X, which begins, "Cum simus," concerning the Patriarch of Antioch, who had been wounded in Rome. This Constitution is an application of this Article to a specific case: for this Article was written almost verbatim from the Bull "Coenae," to which Clement X referred in the aforementioned Constitution, "Cum simus."

[*Latin ed. p. 627*]

VI. "Those who directly or indirectly impede the exercise of ecclesiastical jurisdiction, whether in internal or external matters, and who, for this reason, appeal to the secular forum, and who carry out, issue, or provide assistance, counsel, or favor to such appeals (1). (1) The question arises whether the conjunction 'et' (and) is to be understood in a disjunctive sense, so that 'and those who appeal to the secular forum, etc.' represents a separate condition that must be met for those who impede the exercise of jurisdiction to be subject to this censure; or whether the conjunction 'et' has a disjunctive force, signifying 'or'. It is more likely that the conjunction 'et' has a disjunctive force, signifying a second class of those who are equally subject to the same censure. This is evident from the fact that this article, although somewhat altered and written very concisely, was expressed in the following terms in the Bulla Coenae: '<• Also, those who, by imprisoning or harassing archbishops, bishops, other superiors and inferiors, and all other ecclesiastical judges, directly or indirectly prevent them from exercising their ecclesiastical jurisdiction against anyone, according to what canon law and sacred ecclesiastical constitutions and the decrees of general councils, and especially the Council of Trent, establish; AND ALSO those who, after evading the judgments and decrees of these ordinaries, or even those delegated by them, appeal to secular chancelleries and other courts, and who seek to obtain prohibitions and mandates, even penal ones, from those secular authorities against the aforementioned ordinaries and delegates, and who seek to have them enforced; and also those who issue such decrees and enforce them, or who give assistance, counsel, patronage, and favor in these matters.' From these words, it is clear that the article in question expresses the substance of the article in the Bulla Coenae, although in fewer words: the substance of the article in the Bulla Coenae involves a distinction between those who impede the exercise of ecclesiastical jurisdiction and those who evade the effects of that same jurisdiction by appealing to a secular tribunal. Furthermore, this is also evident from the context of the article in the Apostolic Constitution, since those who impede the exercise

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of jurisdiction may be of greater authority than those who appeal to the secular forum to prevent the effects of that jurisdiction. Furthermore, the question arises whether the word 'edentes' (issuing) refers to a third class of those who are included under this censure, and who are distinct from those who carry out mandates. The answer is affirmative. It refers to a secular judge or any other official of the secular forum who issues mandates that impede the exercise of ecclesiastical jurisdiction: this is also shown by the words in the Bulla Coenae, 'those who issue these things,' which correspond to the word 'edentes.' Furthermore, among the interpreters of the Bulla Coenae, there was a question as to whether it was sufficient to incur such a censure simply by appealing to secular courts, even if nothing was obtained from the secular judge, or whether it was necessary for a mandate or prohibition against ecclesiastical judges to be obtained, and even enforced. The first opinion received by the Sacred Congregations was that, whenever they were judging cases, they would indicate whether someone had appealed against the authority of the ordinary to secular tribunals, advising the person to consult his conscience because of the appeal to the secular tribunal. However, this question cannot be raised further today, since the article in the Apostolic Constitution contains no other words than 'those who appeal to the secular forum and carry out its mandates.'"

[*Latin ed. p. 628*]

— 12 — vii. "Those who, either directly or indirectly, compel or induce lay judges to bring ecclesiastical persons before their tribunals in violation of canonical regulations (1); also, those who enact laws or decrees that infringe upon the freedom or rights of the Church (2)."

(D. The question arises whether lay judges, who, by virtue of the office imposed upon them by the laws of the Kingdom or Empire, which are contrary to ecclesiastical sanctions (as is customary in the present order of civil society), bring ecclesiastical persons before their tribunals in order to perform their said office, incur censure for such actions. I scarcely dare to answer this question. However, I must state that in Article of the Bulla Coenae, such a formula was expressed as follows: "We excommunicate those who, 'BY REASON OF THEIR ALLEGED OFFICE,' or at the instigation of one party or others, bring ecclesiastical persons, chapters, convocations, colleges, or any other ecclesiastical bodies before their tribunals, hearings, chancelleries, councils, or parliaments, in violation of the provisions of canon law, or cause them to be brought, or procure such action, directly or indirectly, under any pretext whatsoever."

Comparing the two articles, it becomes apparent that the article in the Bulla Coenae was very restrictive, certainly taking into account the condition of the present society. Indeed, those who perform the duties of a judge cannot always abstain from refusing to apply laws of the Kingdom that are contrary to ecclesiastical immunity; therefore, all the more so are those

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who, knowing this, in some way compel a lay judge to bring ecclesiastical persons before their tribunal, than those judges who are compelled to bring them by their alleged office.

Furthermore, here we are dealing with the penalty of excommunication, which may be lacking, even though the action remains illicit. Lay judges, who know that they cannot judge clerics (for they are exempt from secular power by reason of ecclesiastical immunity, which derives from divine law, and which the Council of Trent established with canonical sanctions), should consult their conscience if they are granted the power by the Apostolic See to judge ecclesiastical persons.

By the words "in violation of canonical regulations," reference is made to concordats between the Kingdom or Empire and the Apostolic See, which remain in force; and by the same words, reference is also made to the case in which a certain ecclesiastical person has been legitimately degraded and handed over to a lay judge for punishment; as well as to other cases: for example, when an ecclesiastical person brings a lay person before a court; for an ecclesiastical person may appear in a secular court in a non-ecclesiastical cause as a plaintiff; but that person cannot be brought as a defendant. Canonists write extensively on this matter.

(2) The second part of this article includes laws concerning royal jurisdiction, royal enforcement, and other similar matters; as well as all decrees that infringe upon the freedom of the Church or the rights of churches. This article was expressed in the Bulla Coenae as follows: "And also (we excommunicate) those who, by statutes, ordinances, constitutions, pragmatic sanctions, or any other decrees, in general or in particular, for any reason and under any pretext, and even under the pretext of any custom or privilege, or in any other way, have enacted and ordered, and have made public, or have used in practice and have ordered, WHERE THE ECCLESIASTICAL LIBERTY IS TAKEN AWAY, or IN SOME WAY INJURED, or IMPAIRED, or OTHERWISE RESTRICTED, or in any way PREJUDICED, directly or indirectly, tacitly or expressly, in our and the rights of this See and of all churches."

The article in the Bulla clearly explains the words of the Constitution; however, it should be noted that, under the article of the Constitution, only those who enact laws are included, and not others; that is, the authors of laws and decrees are included.

[*Latin ed. p. 629*]

— 13 — vm. "Those who appeal to secular authority to impede any letters or acts issued by the Apostolic See, or by its Legates or Delegates, directly or indirectly prohibiting or hindering their promulgation or execution, or who, for this reason, harm or terrify the parties involved (1)."

IX. "All falsifiers of Apostolic letters, even in the form of Breves and

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petitions concerning grace or justice, signed by the Roman Pontiff, or by the Vice-Chancellors or officials of the Holy Roman Church, or issued by order of the aforementioned Roman Pontiff; and also those who falsely publish Apostolic letters, even in the form of Breves, and those who falsely sign such petitions under the name of the Roman Pontiff or the aforementioned Vice-Chancellors or officials."

X. "Those who absolve a person involved in a grievous sin, even a mortal sin, if another priest, even if not approved for hearing confessions, can, without serious risk of infamy or scandal, hear the confession of the dying (2)."

Cl> "This article encompasses three types of persons:

1. Those who appeal to secular authority to impede any letters or acts issued by the Apostolic See or by its Legates and Delegates.

2. Those who directly or indirectly prohibit or hinder the promulgation or execution of such acts.

3. Those who harm or terrify the parties involved, that is, the persons who have obtained a decree of grace or justice from the Holy See or its Legates, or who have obtained a favorable judgment, or who harm or terrify others, such as the advocates of such parties who have obtained the acts, or the executors, or those to whom the obtained acts refer in some way.

All of these things are not uncommon in places where the laws of Regium are in force, or where the Organic Regulations are enforced, as an example can be found in the Latin periodicals, volume IV, page 147, in the notes. (2)

His Most Holy Lordship, by a general decree issued by the Holy Office on Thursday, June 17, 1866, decreed: "In the faculties with which Bishops and other local Ordinaries possess, by Apostolic concession, the power to absolve from all cases reserved to the Apostolic See, such cases must always be considered and must be excepted from the cases reserved in the Bull of Benedict XIV, which begins: Sacramentum poenitentiae.' This decree ordered that all Ordinaries throughout the world be given this faculty of absolution without any exception."

There are two cases reserved in this Constitution; that is, the cases of a priest."

[*Latin ed. p. 630*]

— 14 — XI. Those who usurp or seize jurisdiction, goods, revenues, pertaining to ecclesiastical persons by reason of their churches or benefices (1). XIX. Those who invade, destroy, or detain, either by themselves or through others, properties, lands, or places belonging to the Roman Church; or who usurp, disturb, or retain supreme jurisdiction over them; incur absolution of the person involved in a scandalous matter, and the case of any person of either sex falsely denouncing a priest of solicitation. However, the first

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case is mentioned in the preceding article because of the censure attached; the second, however, remains without censure, and it can almost be said today that it is the only case reserved to the Holy See without censure.

(1) The question arises: Are those who receive ecclesiastical goods usurped by usurpers, through some contract, included under this censure? Answer: They are not included. The reason is that, although those who, knowing that the thing is usurped, receive it from usurpers, are generally to be considered in the same category; nevertheless, since this concerns not the nature and degree of the crime, but the censure imposed by the will of the legislator, the rule of law applies: the legislator has expressed what he wanted, and what he has not expressed he is to be considered not to have wanted. Which, in other words, is the principle of strict interpretation. Furthermore, it is asked: Are those included under this censure who usurp or seize ecclesiastical goods, which, however, do not pertain to ecclesiastical persons by reason of their churches or benefices, such as, for example, the goods of pious institutions, that is, hospitals, lay confraternities, and the like? Answer: I believe they are not included; and for the same reason: nevertheless, both these and those are included under the censure of Trent, which is reserved to the Roman Pontiff, but not in a special manner.

It is also asked: Are those who usurp or seize the goods of monasteries included? Answer: Affirmative: for they pertain to ecclesiastical persons by reason of their churches. It is asked: Do those who usurp and seize the goods or revenues of a lay chaplainship also fall under this censure? I believe they are not included: the reason is that lay chaplainships are not called, nor are they truly, benefices, but are resolved into pious foundations or pious legacies; nor are they erected by the authority of the Bishop, and therefore their goods are not strictly called ecclesiastical; although, by the will of the founder and by the nature of the thing, these goods are mostly inalienable, and require the permission of the Apostolic See in order to be alienated.

It is asked: Are those who usurp or seize the goods or revenues of a lay patronage included under this censure? I believe they are included: for such goods, pertaining to ecclesiastical persons, are goods strictly received as benefices, although these benefices are subject to the service of Patrons, who have the right to present the beneficiary when the benefice is vacant, have the right to certain honors, and some right to support, if they are in want. These benefices are erected by the authority of the Bishop, and their goods become the property of the Church, so that the Patrons cannot interfere in their administration.

[*Latin ed. p. 631*]

— 15 — nor also to those who provide assistance, counsel, or favor (1). We declare that the absolution from all the excommunications mentioned

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above is reserved to the Roman Pontiff in a special manner and shall remain so reserved; and that no general concession to absolve from sins, censures, or excommunications reserved to the Roman Pontiff shall suffice in any way, revoking, moreover, any indulgences previously granted with respect to these matters, under any form and to any persons, even those of regular orders, congregations, societies, and institutes, even those of special merit and in any dignity. Those who presume to absolve, without due authority, even under any pretext, those who are bound by the bond of excommunication reserved to the Roman Pontiff (2), should know that they are doing so improperly, unless it is a matter of imminent death, in which case, however, the obligation to observe the mandates of the Church remains in force, if they recover (3).

Often, it happens that those who provide assistance, counsel, or favor to prohibited actions, or even those who adhere to them, are said to be included under censures. However, these should be understood in such a way that there is a formal cooperation and real adherence, which does not consist only of intention, but of action: not out of ignorance or fear, but out of deliberate will. On this matter, it is sufficient for me to refer to the responses of the Holy Penitentiary, among many others that I have presented in the Latin periodicals: thus, the Holy Penitentiary responded on December 10, 1860, regarding these matters: "Ecclesiastical censures are incurred, according to the Apostolic Letters of March 26, 1860, by those who formally cooperate or adhere to the rebellion against the jurisdiction of the Holy See. Therefore, in order to determine, in the forum of conscience (concerning which the Holy Penitentiary is concerned), whether someone has incurred censures, the conscience of each individual must be examined by the confessor."

Article XII of the Bulla was expressed as follows: "Likewise, we excommunicate and anathematize all those who, by themselves or through others, directly or indirectly, under any title or pretext, presume to invade, destroy, occupy, and detain, in whole or in part, the beloved City of Rome, the Kingdom of Sicily, the Islands of Sardinia and Corsica... and other cities, lands, and places, or rights belonging to the Roman Church, and those which are subject to the aforementioned Roman Church, either mediately or immediately; nor do they presume to usurp, disturb, retain, and vex, in various ways, the supreme jurisdiction in those places which belongs to us and to the same Roman Church; nor those who adhere to them, are authors, or defenders of them, or who provide them with any kind of assistance, counsel, or favor."

Comparing this Article of the Bulla with Article of the Constitution, it appears that those who adhere, are authors, and defenders of them, have been included. However, the Apostolic Letters of 1860 are still in force on this matter.

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(2) Therefore, the cases simply reserved to the Roman Pontiff, which are listed below, are not seventeen, but, including this, there are twenty-eight. One might ask, what is the legal consequence if someone were to absolve without authority such penitents, not out of disobedience, but out of persistent persuasion that the Pope or Bishops do not have the right to reserve sins? Answer: In this case, the confessor would be a heretic, according to Canon 2 of the Council of Trent, Session 14, on penance, which reads: "If anyone should say, 'Bishops do not have the right to reserve cases to themselves,' except with regard to external policy,' and therefore the reservation of cases does not 'prevent a priest from truly absolving those reserved,' let him be anathema."

(3) See Appendix V.

[*Latin ed. p. 632*]

— 16 — Excommunications of the Imposed Sentence Reserved to the Roman Pontiff. We declare that the excommunications of the imposed sentence are reserved to the Roman Pontiff: I. Those who teach or defend, whether publicly or privately, propositions condemned by the Apostolic See, under the penalty of excommunication of the imposed sentence; also, those who, as a supposed practice, inquire of a penitent the name of an accomplice, as condemned by Benedict XIV in the Constitution *Lii* in the year 1746; and in the Constitution *Ad Const. Suprema* of July 7, 1745, and September 2, 1746. II. Those who, instigated by the devil, inflict violence upon Clerics, or Monks of either sex, except in cases and for persons concerning whom it is permitted by law or privilege for a Bishop or another to absolve them.

(1) Benedict XIV, in the Constitution *Suprema*, reprobated the practice of inquiring of a penitent the name or individual person of an accomplice, writing to the Portuguese in these words: "We wish you to know that the aforementioned practice, mentioned above, is to be thoroughly condemned, and that we, by these present letters, condemn and denounce it as scandalous and pernicious, and as harmful to the reputation of the nearby, and also to the Sacrament itself, and as alienating the faithful from the very profit and necessary use of the Sacrament of Penance." In the Constitution *Ubi primum*, the same Pontiff, confirming the previous Constitution, among other sanctions, decreed: "We establish and decree that whoever... shall hereafter have dared to teach that such a practice is permissible, as it is explained and reprobated in our aforementioned Brief; or who shall presume to write or speak in defense of the same condemned practice, or to challenge or recklessly distort or interpret those things which are decreed in the aforementioned Brief against the same practice, shall, by such action, incur excommunication, from which he cannot be absolved, except at the point of death, by anyone else, even though endowed with dignity or supported by authority, except by Us, or by the Roman Pontiff for

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the time being." In the Constitution *Ad eradicandum*, the Pontiff, against the erroneous opinions of those who taught that these Constitutions did not extend beyond Portugal to which they were sent, declared: "We decree and declare that the aforementioned practice is, in itself, and everywhere in places and times, reprobated and condemned by the Apostolic Authority, and ought to be considered as such..."

(2) This article contains the well-known privilege of Clerics, which, from the Canon of the Council of Lateran under Innocent II, is called the privilege of the Canon. The Canon indicated was expressed in these words: "If anyone, instigated by the devil..."

[*Latin ed. p. 633*]

— 17 — Those who perpetrate violence, or who simply provoke it, or who accept it, along with any accomplices, or who offer any assistance or favor, and those who observe it, shall incur the guilt of sacrilege if they inflict violence upon a cleric; they shall be subject to the bond of excommunication, and no bishop shall presume to absolve them (unless under the imminent danger of death), until they are presented to the Apostolic See and receive its mandate.

Never has there been among the reserved penalties in law a censure so celebrated and so well known to the Christian people as this canon's censure. The Roman Pontiffs, and the commentators on the ninth title of the Decretals, "De sententia excommunicationis," have interpreted these words of the canon with ample reason: for it is the same whether a man or a woman inflicts the blow, and whether the person is lay or regular, as is stated in cap. "Cum pro causa," cap. "Porro," cap. "Monachi," on the sentence of excommunication. A cleric, whether secular or regular, who is struck, as is stated in cap. 2 of "Cum pro causa," in the same title, and likewise if clerics strike each other, incur the same penalty, not only those who inflict the blow, but also those who command, incite, advise, or urge, as the vulgate rule states, "he who does it through another seems to do it through himself." Also, those who assist, favor, and aid the one who strikes a cleric incur the penalty of the canon, as is stated in the Gloss on cap. "Mulieres de sententia, excom." Likewise, those who offend a cleric who has received the tonsure but is still a minor incur the penalty of the canon, as is stated in cap. 1 of "De Clerico coniug." in 6, as well as those who are converts from the churches of regular canons, as is stated in cap. "Non dubium," cap. "Parochianos," cap. "Ex tenore," cap. "Monialibus, de sententia, excom." Similarly, novices of an approved religious order enjoy the privilege of the canon, as is stated in cap. "Religioso s. fin. in sententia, excommunicationis in 6." These are the principal cases. It is easily asked whether, by the words of the preceding article, these cases, which under the strict sense of those words might not all be included, are to be included. Answer: I believe that all the enumerated cases are included: for where

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there is the same law and the same reason for the law, there should be the same interpretation. Even under the words cited in the canon, if all the enumerated cases were not included in the strict sense, the Roman Pontiffs have included them. The reason that is commonly given for why this penalty has been extended to all who cooperate, whatever their person may be, provided that they have subjected themselves to the ecclesiastical hierarchy, or have given their name to a religious institute, by which, perpetually to God, they are consecrated, is that it is a matter concerning the favor of the Church, that is, the immunity of persons of the Church, the privilege of the clerical order: but although this is some reason, it is not yet adequate: for it could be repeated of every censure imposed for the sake of the Church's immunity, that it is not always true. The adequate reason for the canon is this: if someone, by advising, is present, it seems that this is the case. It has always been considered in the Catholic Church as the gravest sacrilege to inflict impious violence upon those who are dedicated to God: and a grave censure has been added not only to prevent such sacrileges; but because the censure seemed consonant and coherent with the gravest sacrilege, which has always been reprobated by the horror of the faithful: therefore, just as the guilt of sacrilege, by violence inflicted, is extended, so too the censure must be understood to extend. Therefore, in this matter, the principle does not apply: that the legislator, if he expressly willed something, is to be considered to have not willed what he did not expressly state; but the article is to be understood according to the canon from which it is taken, according to tradition. The article of the Constitution, of which we are speaking, is an expression of the said canon, made almost in the very words: the censure is reserved to the Roman Pontiffs, with the limitations, however, of the law or privilege permitted: which sufficiently indicates that the interpretation of this article is the same as that which has already been found in law. Regarding the limitations, see Appendix VI.

[*Latin ed. p. 634*]

— § 8 — and permitting this, or at least not prohibiting it, regardless of their rank, even if they are royal or imperial (1). IV. Those who give names to the Masonic sect, or (Carbonarian, or other sects of the same kind, which plot against the Church or legitimate authorities, either openly or secretly); nor those who grant any kind of favor to such sects; nor those who do not denounce their hidden leaders and chiefs, until they have denounced them (2). (1) This article includes the Tridentine Constitution of Session 25, chapter 19, concerning reforms, and extends and clarifies it. It extends it 1° to those who simply provoke, even if the other does not accept the challenge, and therefore the challenge does not follow. 2° To those who accept the challenge, whether or not a challenge follows from it; whereas the Tridentine Constitution decreed: "Let no one enter the arena." Here, the interpretation is given, concerning those who watch from afar. The

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Tridentine Constitution decreed: "Emperors, Kings... who have granted a place for a duel in their lands..." Here, it is extended to mean: "permitting this, or at least not prohibiting it, regardless of their rank, even if they are royal or imperial." Furthermore, a reservation is added, which does not seem to have been present in the Tridentine sanction. The Tridentine Constitution concerning those who engage in duels is given below. (2) The Fenian sect is declared to be included among the sects mentioned in this article by the Decree of the Holy Inquisition, which follows: DECREE of Thursday, January 12, 1870. "Since it has been doubted by some whether the society of Fenians is considered to be among the societies condemned in the Constitutions of the Popes, the Most Holy Pope Pius IX, with divine providence, after careful deliberation with the Most Eminent Cardinals, against the heretical perversity in the entire Christian Republic, in order that the hearts of the faithful, especially the simple, may not be perverted with a clear distinction of souls, in accordance with Decrees already issued by the Holy Universal Congregation of the Inquisition in similar matters, especially the Decree of Thursday, July 5, 1865, decreed and declared that the American or Irish society, called the Fenians, is included among the societies prohibited and condemned in the Constitutions of the Supreme Pontiffs, and especially in the most recent one issued by the same Holiness on October 14, 1869, beginning: 'Apostolic See, in which, under number 4, those who are subject to the sentence of excommunication reserved to the Roman Pontiff are declared: 'Those who give names to the Masonic sect or the Carbonarian sect, or other sects of the same kind, which plot against the Church or legitimate authorities, either openly or secretly; nor those who grant any kind of favor to such sects; nor those who do not denounce their hidden leaders and chiefs, until they have denounced them.' And it was commanded that this should be answered to any bishop who requests it." Place for the Seal For D. ANGELO ARGENTI, Secretary of Rome and Union of Inquisitors. James Vogaggini, Substitute. In the same exposition of Article IV, concerning the words "nor those who do not denounce their hidden leaders and chiefs, until they have denounced them," the question is asked: whether the obligation to denounce others ceases, who are neither leaders nor chiefs, but who are nevertheless hidden sectaries. Answer: By the Apostolic Constitution, nothing is inherently changed regarding the obligations of others of any kind; they are merely limited by censure; therefore, in all cases...

[*Latin ed. p. 635*]

— 19 — V. They command, or with reckless audacity violate, the immunity of ecclesiastical asylum (1).

VI. Those who violate the enclosure of nuns, of whatever kind or condition, sex or age, within their monasteries, are obligated to report this, where ecclesiastical law requires reporting. This obligation arises both for

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the sake of the public good and for the sake of the private good of the person reported. If the second reason were to cease, the first reason remains; for it is always useful for the Bishop and for ecclesiastical authority, to whom the care of the faithful has been entrusted, to know about hidden heretics or sectarians, and others who ought to be reported. And for these reasons, even if the law of reporting were to cease, the obligation derived from natural law would remain; and natural law, with grave circumstances concurring, can greatly obligate, as when it is a question of avoiding a grave harm. Regarding the enclosure, until they have reported, see Appendix VII. Cl). In the first edition of the Constitution *ex officio*, an error occurred in this Article: it was read as follows: "Commanding, or with reckless audacity violating, the immunity of ecclesiastical asylum." It must be read in the opposite way, as we have explained. This is confirmed by letters from the Reverend Assessor of the Holy Office, dated on this matter to the Sacred Penitentiary this year, 1871, on February 10th. This Article includes both those who command the violation, and those who violate, in the same way. However, in order to incur censure, both are required conjunctively, that is, the violation of the immunity of asylum and the reckless audacity. Therefore, if either term is lacking, censure is not incurred. Here, the question arises: what is the immunity of asylum? It is understood to be the ecclesiastical immunity insofar as it refers to the asylum for those who flee to it. For among the principal rights of the local immunity of the Church has always been that sacred right, by which Christians, fleeing to churches for some crime, could not be taken from there, except in cases expressly permitted by law; and also, the forms prescribed by ecclesiastical authority must be observed, when they ought to be taken for excepted cases. What are such excepted cases, and what are the places that enjoy ecclesiastical immunity, see Appendix VIII. The question is asked: do soldiers, who do not wish to violate the immunity of asylum, nevertheless, against their will, are forced by their superiors to violate it, incur censure? Answer: They do not incur censure: for the reckless audacity is lacking, which requires both knowledge of the laws and a voluntary disregard of them. The question is asked: do those who command a person to be taken from a place which the Bishop has judged to enjoy ecclesiastical immunity, incur censure, if they command this, because they are certain that the place does not enjoy ecclesiastical immunity? Answer: They do not seem to incur this censure: for there would be no violation of the law of asylum, although reckless audacity might be present due to contempt for the legitimate form. Mention is also made of reckless audacity in the Constitution *Ex quo divina*, issued by Benedict XIII, on the sixth of the Ides of June, in the year 1725. In it, the Pope urged all Bishops to "with a priestly heart, whenever it is necessary, oppose all those who should presume, with any kind of reckless audacity, to hinder or disregard the execution and observance of the present Constitution in

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any way."

[*Latin ed. p. 636*]

— 20 — permission to enter) (1); as well as those who introduce or admit them, and also nuns who leave the enclosure, and the form prescribed by St. Pius V in the Constitution *Decori* (2).

(1) These words are taken from the Council of Trent, Session 25, on Regular Discipline, chapter 5, where it is read: "But to no one of any kind or condition, of either sex or age, shall it be permitted to enter within the walls of a monastery without the written permission of the Bishop or Superior..." However, the last words are missing in the Article, and in their place are these others: "unless with lawful permission, lest it be thought that excommunication is also connected with the failure to obtain the form of permission." Therefore, it suffices that the permission be lawful, which must be given by those from whom it ought to be given, in the prescribed form, so that a defect in the form does not carry with it a censure.

(2) St. Pius V, in the Constitution *Decori*, published on January 24, 1670, decreed: "§. 1. It is a matter fraught with danger and scandal, and greatly contrary to regular observance, for religious women sometimes, and parents, brothers, sisters, or other relatives, and also monasteries and other institutions, even those subject to them, to visit, or for the sake of infirmity or some other pretext, to leave the monasteries and wander about in the houses of lay people, thereby exposing, as it were, even the most honorable and decent of them to danger.

"§. 2. Wherefore, wishing to remedy this, as is fitting for our pastoral office, and also adhering to the decree of the sacred Council of Trent concerning the enclosure of nuns, and to other of our letters previously issued concerning such enclosure, we decree, order, and enact that no abbesses, prioresses, or other nuns, even of the Carthusian, Cistercian, Benedictine, and Mendicant Orders, and of all other Orders, even of the military and secular states, of all ranks, conditions, dignities, and distinctions, even those born of royal or illustrious lineage, shall, from now on, visit monasteries, even those subject to them, or the houses of parents or other relatives, or for any other occasion or pretext, unless it be for the cause of fire, or of leprosy or epidemic, which infirmity, besides the other superiors of the Orders to whom the care of the monasteries belongs, must also be known and expressly approved in writing by the Bishop or other Ordinary of the place, even if the aforementioned monasteries are found to be exempt from the jurisdiction of the Bishops and Ordinaries; and in such cases, it is permissible to remain outside only for a necessary time; but those who allow anyone to leave, or who grant permission to leave in any way, as well as those who accompany them, and those who receive them, whether lay or secular, or ecclesiastical, relatives or not, shall immediately be subject to the bond of the greater excommunication, without any declaration, from

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which they shall not be absolved, except by the Roman Pontiff, or at the point of death." These, however, are now abrogated.

The question is asked, whether under the name of enclosure is included that enclosure to which those women living in community are also subject, who emit simple vows: which enclosure is imposed either by Bishops, or by the force of their Constitutions, or even by the force of a special vow.

Answer: It is not that which is meant: for that is governed by laws which the Bishop prescribes, or Constitutions, or a vow; but it is that which is prescribed by the general laws of the Church to nuns who emit solemn vows. The word is in this Article about those nuns and about that enclosure, of which the Council of Trent and the Constitution of St. Pius V in the Constitution *Decori* speak. On this matter, there is also a recent Resolution of the Sacred Congregation of Bishops and Regulars, which is indicated by Fr. Lucidi in his work *De VV. SS.LL.*, volume II, page 310, in these words: "On August 1, 1839, the Sacred Congregation of Bishops and Regulars resolved the following two questions: I. Whether, if there are no solemn vows, nuns are nevertheless bound to observe the enclosure, which they have promised under a simple vow, under the censures prescribed by the Council of Trent?"

[*Latin ed. p. 637*]

— 21 — Question: "Do women who violate the enclosure of religious men, and superiors or others who allow them to do so, incur penalties (1), even when the enclosure has been restored by the Bishop, according to edicts?"

II. "Does the penalty of excommunication also apply to those who, without permission, enter the enclosed areas of a monastery where the enclosure has been restored by the Bishop?"

Answer: The Holy Congregation responded: "Regarding I, negatively concerning the penalties prescribed by sacred canons and Apostolic Constitutions; affirmatively regarding censures that the Bishop may have imposed. Regarding II, affirmatively if it has been decreed by the Bishop."

Note: The same author adds that the Holy See, the Bishops, and the Religious, when the law of enclosure was in force with censures imposed by the Bishops on the monasteries of simple vows, and therefore when there was a complaint against it, usually maintained the response in Ravenna on June 18, 1728, September 23, 1757, and March 10, 1758.

Regarding the enclosure, which they call "papal," and the one they call "episcopal," see Appendix IX.

(1) Regarding this article, the same question can be asked as I said about the previous one; and the same answer seems to be given. For the discussion is about the enclosure of religious men; but this term is not used to refer to the ecclesiastical congregations of those who make simple vows.

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However, it should be noted here that the discussion is only about the censure, and not whether it is convenient or lawful according to sacred canons. In Rome, however, there is a custom whereby women are not only not admitted into the houses of ecclesiastical congregations, but also not into pious places such as seminaries and colleges for clerics and others.

This article is explained more fully, considering its origin, from which it derives. Pope Pius V, in the Constitution for Regular Canons, issued on October 24, 1566, stated: "Because, as we have learned, the peace of the Order of the Carthusians and of other religious orders who profess a regular life is often disturbed, because women, forgetting the modesty of matrons, dare to enter the houses and monasteries of these orders, contrary to their institutions, under the pretext of confession or other Apostolic letters, and sometimes even to Abbesses, Superiors, Priors, and other superiors, who sometimes refuse or hesitate, not without great annoyance to them, and without a serious offense and scandal, if they seem to admit them too easily.

"Wishing to provide for this, by our own motion and with certain knowledge and with the fullness of Apostolic power, we revoke all and every faculties and licenses granted to women of any status, and with any dignity and distinction, including Countesses, Marchionesses, and Duchesses, to enter the monasteries and houses of the Carthusians, and of other regular orders, even of mendicants, prohibiting these aforementioned women from claiming such faculties and licenses under the penalty of excommunication latae sententiae, from which they cannot be absolved except by us or the Roman Pontiff who is in office, except that they may not dare to enter such houses and monasteries in articulo mortis.

"To the Abbesses, Superiors, Priors, and other superiors, whatever they may be called, and to their monks, canons, and brothers, whether mendicants or not, under the penalties of deprivation of offices which they hold in the present, and of incapacity in the future for those and other things, and of suspension from divine offices, incurred by the very fact, without further declaration, if they presume to introduce or admit them."

In the Apostolic Constitution under discussion, these penalties, namely the suspension incurred by the fact of introducing and admitting women to the Religious, are reversed: the excommunication is incurred by the very fact and is reserved to the Roman Pontiff.

[*Latin ed. p. 638*]

22 — VI. "Those guilty of simony, whether in benefices of any kind, and their accomplices (1)." I state that the suspension of office should be imposed immediately by the very act itself; for it may be doubted whether other canonical penalties remain in force, since the most grievous penalty of excommunication seems sufficient to achieve the intended purpose; and therefore, other penalties appear to be superseded by this new provision. However, the Constitution of Sixtus V, which I cited, was not correctly

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understood by the monks of the Congregation of Monte Vergine, according to the Pope's intention; therefore, the same Pope issued other Apostolic letters on July 16, 1570, beginning with the words "It is our intention and we declare," stating more fully his meaning with these words: "We declare and state that the intention and purpose of the aforementioned letters was not only to include women who pretend to have the right and permission to enter the monasteries, but also all and every women, both in general and in particular." Nevertheless, as we signify, because of this and the aforementioned letters, we do not understand, nor do we intend, that women are excluded or are excluded from access to the monasteries and regular places of the aforementioned Congregation and their cloisters, when Masses and other divine services are celebrated there, and when processions are held, and when the bodies of the faithful are buried there, and also for the sake of offering prayers for them; but we freely and perpetually grant to all these women the right to freely and lawfully access those places of the aforementioned Congregation, in which these pious works are performed, together with other Catholic persons, and to be able to do so. And likewise, when the divine word is proclaimed in the cloisters of monasteries and regular places of this Congregation, or for any other reason, if there is such a large gathering of people that they cannot conveniently enter or exit through the church door, we perpetually grant that these women, together with other lay people, may enter and exit through the cloister door of the monasteries and regular places of this Congregation, provided that they proceed directly to the door through which one exits from the monastery. Although these seem to be special concessions made to the monks of Monte Vergine, nevertheless, by custom, in similar circumstances, we also see the same observed in some Orders of religious women, who have within their monasteries, for example, a chamber of St. Founder or of another Saint, on the feast day of that Saint. Therefore, without comparison, the law regarding the enclosure of nuns is much stricter and much broader than the law regarding the enclosure of religious women, which is stricter in terms of the cloistered limits of the ancient monks, than in terms of the limits of monasteries and houses of subsequent Orders. (1) Simony, which is called real, is so called to distinguish it from that which is called mental, and from another which is called conventional. The crime of real simony is committed when a contract or agreement to give a spiritual thing for a temporal thing, or vice versa, to give a temporal thing for a spiritual thing, is ordered to be carried out on both sides, at least this execution must have begun on both sides. If this type of simony occurs in ecclesiastical benefices, whether these are secular or regular, or of a higher order, such as bishoprics, dignities; or of a lower order, such as simple benefices, or patronage, or free collation, then those guilty of such simony, and their accomplices, are included under this Article. This type of simony, which from ancient times has brought with it many other and very serious canonical penalties,

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is discussed in Ferraris, *Bibliotheca canonica*, under the word "Simonia."

[*Latin ed. p. 639*]

23. Regarding those accused of simony:

I. Those accused of *simonia confidentialis* (clandestine simony) in any benefice, whatever its dignity.

X. Those accused of *simonia realis* (actual simony) upon entering a religious order.

XI. All those who, by seeking gain from indulgences and other spiritual graces, are subject to the censure of excommunication, according to the Constitution *Quam plenum* of Pope Pius V, dated January 2, 1569.

(1) *Simonia confidentialis* is a form of simony that occurs in ecclesiastical benefices through a certain confidence, by which a particular obligation is created to dispose of the benefice. This simony is committed when someone gives or bestows an ecclesiastical benefice, or presents someone for it, and either elects or confirms the chosen or presented candidate, with a certain confidence and obligation, that is, with an express or tacit agreement or condition that, as if by duty, they will cede or resign the benefice to themselves or to another, such as a brother, nephew, friend, at a certain time. Regarding this type of simony, the Constitution of Pope Pius V, beginning with the words *Intolerabilis*, should be read, which is explained in Appendix X.

(2) Concerning *simonia realis* upon entering a religious order, see especially the approved authors of moral theology.

(8) Those who are subject to excommunication by the Constitution *Quam plenum* are inferior clergy, because of the pursuit of gain, which causes simony. The Pope, in this Constitution, recounts certain abuses in the granting of certain faculties, and invalidates these concessions, and finally establishes penalties, in the following manner:

"§ 1. We have indeed heard of a most deplorable thing, that certain prelates of the churches in Hispaniae, and even formerly Gomentius Tellezgiron, a temporary administrator, which he detested more when he was so, and a simple administrator of the church of Toletanae, abusing the grace of freely received favors, and exceeding the faculties granted to them by the sacred canons, have dared to publish their letters in their cities and dioceses, in which, among other dangers, it is found that anyone who receives these letters will be permitted to choose any priest he wishes, who, after hearing confession, can absolve him, not only in those cases in which a simple priest can absolve, but also in those which are reserved to bishops alone, with some further circumstance that would certainly be referred to the examination of this Holy See."

"§ 2. Furthermore, these same individuals, in their excessive prodigality in dispensing the gifts of heavenly grace, lavish indulgences and remis-

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sions of penitential exercises to those who receive these aforementioned letters, without any connection to temporal matters, more profusely and indiscriminately, by which, and by other aforementioned licenses, many wavering and weak individuals are made more inclined to sin, when they can acquire the remission of so many and such sins at a certain and very low price; and furthermore, they have ordered that a list of cases and indulgences be appended to the sacred buildings, which buyers seem to seek, when it is plainly stated that those who pay the aforementioned sum will be granted [these indulgences]."

"§ 3. Also, the sacrifice of the Mass, and..."

[*Latin ed. p. 640*]

~ 24 — xn. "Those who collect alms for Masses, and from them obtain profit, by having them celebrated in places where the stipends for Masses are usually of lesser value (1), those who, during the interdict, use prohibited foods, those who admit two or more companions to the sacred baptism, contrary to the Decree of the Council of Trent, besides those who, as they say, adhere to synodal constitutions, incur the guilt of simony, and pay to the Apostolic See for absolution, alleging the repair of churches and pious causes, so that they may appear, with a false pretense, to have overcome the vice of cupidity."

§. i. "Therefore, since, among other scandals, the wickedness of simony is also not obscurely evident, and since the aforementioned Decrees of the Holy Council of Trent and other canonical sanctions, and furthermore our Constitution concerning indulgences not to be sold for gain, are violated, and the authority of the keys is weakened, and the penitential satisfaction is rendered ineffective; we consider it necessary to remedy these evils with a swift remedy, and to prevent such actions in the future, by our own authority and with full knowledge and by the fullness of the Apostolic power, we condemn and excommunicate all the aforementioned things, which have arisen in the Archdiocese of Toledo and in any other cities, dioceses, and places, both in Spain and in other provinces and regions, up to this point, even under the pretext of increasing confraternities and for any other reason, and we declare them to be null and void, and we command that all letters and documents pertaining to them be annulled."

§. 6. "Furthermore, all public and private documents and writings, wherever they may be found, which have been produced by the aforementioned individuals, whether by local Ordinaries or other church officials, must be torn, defaced, and completely destroyed; and we strictly prohibit that such things be done or granted by anyone in the future."

§. 6. "Whoever, even if they hold the honor of the Cardinalate, acts or attempts to act in this manner, shall have the fruits of their churches suspended until, with prior satisfaction, the aforementioned suspension is lifted by the aforementioned See; and those of lower rank shall incur the

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sentence of excommunication, from which they shall not be able to obtain the benefit of absolution unless they are constituted in articulo mortis by someone other than the Roman Pontiff."

(1) "In this Article, the speech is about manual alms for Masses, as can be seen from the word 'Colligentes,' and also from the Constitution of Benedict XIV, which begins with 'Quanta cura,' issued on June 30, 1741, from which this Article originated. Therefore, those who collect stipends for Masses at a higher price in order to obtain profit, by having those Masses celebrated in places where the stipend for Masses is usually lower, incur this censure. The aforementioned Constitution, 'Quanta cura,' after describing certain serious abuses concerning these alms, which are collected for this purpose, continued as follows: 'This practice, which is induced by the base greed for dishonest gain, is not only suspected of avarice and vice, but also of the crime of theft, and therefore it is subject to restitution. As a result, many people, to whose knowledge this kind of trade has come, are seriously offended and refrain from offering alms for the celebration of Masses. Our predecessors, the Roman Pontiffs, detesting this abominable abuse, which is gradually spreading in some places, decreed that no priest should be able to receive a stipend or alms of a higher price for the celebration of a Mass from another priest, even if the priest celebrating the Mass knew and consented to the acceptance of the higher price stipend or alms.' After urging the Bishops to eradicate such abuse and avarice, the same Pontiff finally added that the Bishops should make this known."

[*Latin ed. p. 641*]

— 25 — XIII. "All those who are subject to excommunication are mentioned in the Constitutions of Pope Pius V, *Admonet noa*, of April 1, 1567, and of Innocent IX, *Quemcumque*, which states: 'Whoever, collecting alms or stipends of greater value for the celebration of Masses, as required by local customs or synodal statutes, retains a portion of these alms or stipends received, either for himself or elsewhere, where smaller stipends or alms are given for the celebration of Masses, shall, in the case of a layman or secular person, incur the penalty of excommunication, in addition to any other penalties imposed at your discretion; and in the case of a cleric or any priest, shall incur the penalty of suspension by this very act, and none can be absolved from this penalty except by ourselves or by the Roman Pontiff who is present at the time, unless in the article of death.' This sanction of Benedict XIV, which I have presented for clarification, is partly extended by the article in question, and partly seems limited: it is extended, because the penalty of excommunication is imposed on both laymen and clerics; it is limited, or rather clarified, because it is not stated that this applies only to places where the stipends for Masses are of lesser value; these words sufficiently indicate that it is not a matter of a single or

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few stipends, but of a certain abundant collection made with the intention of profit, so that the one collecting it may obtain a true profit: which would not be difficult, for example, if stipends for Masses were collected in the United States and then transferred to Italy to be celebrated according to the synodal norms or customs of several Italian dioceses. Those who do this incur this censure, while the firm prohibition remains of retaining any portion of the alms for even a single Mass without a legitimate title. Many questions could be raised here, but I omit them, as they seem to have easy solutions, based on what I have indicated. Regarding the abuse that is said to have occurred in various parts of France, I ask: are those included under this article who accumulate superfluous alms for their own church and send them to merchants (from whom they receive some benefit) so that those merchants may use them to sell goods to priests who are in need of stipends for Masses, without the merchants themselves obtaining any profit from the stipends, but rather from the more frequent transactions; so that the stipends for Masses become a convenient and useful means of trade for the merchants. Answer: Those who send stipends to public merchants, receiving some benefit for this purpose, do not seem to be included under this article, although they act illicitly. I said 'illicitly,' especially for two reasons: first, because they send the stipends to public merchants, when they should send them to the Bishop if they lack a means of having them celebrated by other priests; and second, because they receive some benefit, whatever it may be, from which they should not receive anything, since the merchants do not give anything unless they know that they can obtain a greater profit through the stipends offered: which is easily dishonest in this matter, either because of the easy danger that the merchants will not fulfill their obligations sufficiently, or because lay merchants, intent on their own profit, easily delay the celebration of Masses from which they receive an interim profit from the stipends; or even indirectly delay the same by the large number of Masses that they commit to a priest who buys goods from them, to whom the priest cannot satisfy, except over the course of years, due to similar transgressions of ecclesiastical laws. Furthermore, the Sacred Pastors should consider this matter, so that priests who are in need of stipends for Masses may receive them from the surplus of others, by taking on this task themselves. However, there would be nothing illicit in this, indeed it could even be an act of charity, if priests who are in need of stipends for Masses can receive some goods, by celebrating Masses, and leaving the stipends to those who send the goods.

[*Latin ed. p. 642*]

— 26 — Which were issued by this See on the eve of the Ides of November 1591, by Clement VIII, in the document *Ad Romanum Pontificem curam*, on June 26, 1592, and by Alexander VII, among others, on the ninth day

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before the Kalends of November 1660, concerning the alienation and enfeoffment of the States and Territories of the Holy Roman Empire (1). (1) In the Constitution, *Admonet*, solemnly promulgated by St. Pius V, all those who, by themselves or through others, attempt to effect, or suggest, or urge upon the Roman Pontiff, the alienation or enfeoffment of states or territories belonging to the Holy See, under any pretext, even that of necessity or evident utility, are subject to excommunication. Thus, the Constitution states: "§. 3. We decree and ordain that all and each, whether Communities and Universities, or citizens and inhabitants of the aforementioned states and territories (which are subject to the Holy See in temporal matters), or other persons, whether ecclesiastical or secular, of any dignity and order, even episcopal or higher, existing, and the Cardinals of the Holy Roman Church, both publicly in the councils of the aforementioned states and territories, and privately elsewhere in any places, even if the Governors or the Apostolic Legates or Pro-Legates of the states and territories thereof are present, or are negotiating, consulting, or otherwise speaking about enfeoffments or alienations of the aforementioned states and territories, immediately pertaining to us and the aforementioned See, and belonging to it, even if they are commonly and repeatedly granted in fief, even for the sake of exchange or under an annual rent or canon, or in any other way, even with a view to merit towards the aforementioned See, or under the pretext of necessity or evident utility, or if they are requested by us and the aforementioned See from any person, of any dignity, status, rank, even those joined to us and our successors in the flesh, or holding any other temporal or ecclesiastical dignity, as Governors, Vicars, or any other title, for life or perpetually or for a long time, or even at the pleasure of the Apostolic See, of the aforementioned states and territories, and therefore about choosing orators to us and our successors regarding the foregoing matters or on their occasion, proposing, whether they themselves or the orators receiving such a mandate, or any other person, suggesting or urging such alienations to the Roman Pontiff for the time being, whether by themselves or through others, incur the sentence of excommunication, from which they cannot be absolved, except by the Pontiff himself, except in the hour of death." Innocent IX, in the Constitution, which this Holy See, in the first secret Consistory after his election to the Pontificate, inserted in its entirety the Constitution, *Admonet*, of St. Pius V, and recalling that Gregory XIII, in the Constitution *Inter*, and Sixtus V, in the Constitution *Quanta*, had sworn to observe the same, and had approved, confirmed, and renewed it; thus, Innocent himself again approved, confirmed, renewed, and further explained the prohibition of enfeoffing and alienating the aforementioned States, lands, and places. Clement VIII, in the Constitution *Ad Romanum Pontificem curam*, reaffirmed both Constitutions; indeed, he repealed a certain moderation that had been introduced by Gregory XIV, and explained how cases of necessity and evident utility could

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fall under the oath not to alienate states and territories, with these words: "Since such cases of absolute necessity, or of true and evident utility, are more easily conceived and imagined in the mind and spirit than they can occur in practice, it is much more prudent to completely preclude any way of attempting alienations, grants, prorogations, and other concessions, in whatever way and under whatever causes and pretexts, than to leave open, for very rare cases, which hardly ever occur."

[*Latin ed. p. 643*]

— 27 XIV. "Religious persons, whether clerics or laics, are forbidden to administer the Sacrament of Extreme Unction or the Eucharist as viaticum to clerics or laics outside of a case of necessity without the permission of the parish priest (1). XV. "Those who, without legitimate permission, remove relics from the sacred cemeteries or catacombs of the City of Rome and its territory, or who assist or favor such actions (2). (1) Clement V, in the Council of Vienne, as it is read in the Clementine Decrees concerning privileges, decreed among other things the following: "Religious persons who, without the special permission of the parish priest, presume to administer the Sacrament of Extreme Unction or the Eucharist, or to celebrate marriages... shall incur the sentence of excommunication, to be absolved only by the Apostolic See, and the local Ordinary shall publicly declare them excommunicated, until faith has been given to them regarding their absolution..." In the same Clementine Constitution, a limitation was added in the last paragraph, with these words: "However, we do not wish to prejudice, with regard to this, the general rule for those Religious persons to whom the Apostolic See has granted the permission to administer the sacraments to their domestic family members or to the poor residing in their hospitals." This limitation, as is evident, is not abrogated by the article in question; rather, what is said in the Clementine Decrees concerning those Religious persons to whom the Apostolic See has granted permission to administer the sacraments to their domestic family members, has passed into common law, as is gathered from the Council of Trent, Session 24, chapter U on Reforms, with these words: "excepting those who serve actively in these places (exempt from episcopal jurisdiction) or in the military, and who reside within their walls and houses, and live under their obedience." Compare with this matter the case explained in the Latin periodicals in Volume III, page 47. (2) This article concerns the removal of relics from the Roman crypts of former centuries without legitimate permission. However, it is asked, since bones and ashes are often found in open niches in these crypts and catacombs, and it is already known that these are not the remains of martyrs, but of faithful who were buried there, whether someone visiting these crypts would incur censure if they took something from these bones or ashes for the sake of memory or devotion. Answer: It does not seem to incur censure, because it is already known that these were not the

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bodies of martyrs; it would be different if it were a question of relics, about which it is not yet known whether they are those of martyrs or only of the faithful. However, what constitutes legitimate permission, about which there is discussion in the aforementioned article.

[*Latin ed. p. 644*]

— 28 — XVI. Communicating with a person explicitly excommunicated by the Pope for a criminal offense, thereby manifestly offering assistance or favor to him.

XVII. Clerics knowingly and willingly participating in divine services with persons explicitly excommunicated by the Roman Pontiff, and receiving such persons into offices (1). This is stipulated in the Constitution of Clement X, *Ex commisso*, issued on January 13, 1672, which is included in the new edition of the Roman Bullarium, meticulously printed in Turin. The Constitution is worded as follows regarding the provisions relevant to the present Article.

"Desiring, by the heavenly care of our pastoral office, to provide for the pious and decent, and without any disgraceful gain, removal, preservation, and faithful and prudent distribution of the bodies and relics of the saints and martyrs from the cemeteries of this our beloved City and the surrounding areas, after mature deliberation by certain individuals at our command, and after the opinion of our beloved son, Gaspard S.R.E. Presbyter, Cardinal Carpineo, called in the aforementioned City our General Vicar for Spiritual Affairs and our Procurator, was reported to us, by Apostolic authority, by the tenor of the present document, we command and order that no one shall access the aforementioned cemeteries to remove relics, unless he has written authorization for that purpose, which is sealed and signed by the hand of the aforementioned Gaspard Cardinal, or, if he is no longer in office, by the then-current General Vicar for Spiritual Affairs in that City; nor shall any bones or body be dug up and removed from any such cemetery under pain of excommunication, unless it is done in the presence of a priest designated for that purpose by the aforementioned Gaspard Cardinal, or, if he is no longer in office, by the then-current Vicar, who shall diligently inquire into and examine the place, inscriptions, and any signs of martyrdom, which he deems most certain. The venerable Congregation of our Brothers, Cardinals, entrusted with indulgences and sacred relics, shall also be informed.

"After such examination has been made, let each body and the relics of any martyr be immediately placed separately in capsules, which shall be sealed and carefully transported to the City to be kept in our palace, etc."

If you ask what the signs of martyrdom are, recall the decree you have in the Latin ephemerides, Volume II, page 170, in the note.

(1) Before the Council of Constance, all excommunicated persons were

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to be avoided by a greater excommunication. After this Council, due to the Constitution of Martin V, which begins, *Ad evitanda scandala*, only notorious assailants of clerics and those explicitly excommunicated were to be avoided, that is, with the explicit mention of their names, as custom had previously dictated. However, many provisions in the law are found to be ambiguous regarding those who communicated with excommunicated persons, who, in some cases, incurred a lesser excommunication by the very act, while in other cases, a greater excommunication, and in still other cases, a reserved or non-reserved excommunication. Such censures were abolished after the Constitution of Martin V, applying only to those who communicated with excommunicated persons, either explicitly or with notorious assailants of clerics. Notorious assailants of clerics did not need to be denounced as excommunicated in order to be treated as such, which confirms what I wrote above about those who inflict violence on clerics. Today, after the Constitution of the Apostolic See, of which we are speaking, all previous censures against those who...

[*Latin ed. p. 645*]

29 — Excommunications of the lesser degree reserved to Bishops or Ordinaries. We declare that the following are subject to excommunications of the lesser degree, reserved to Bishops or Ordinaries: I. Clerics who have been instituted in the Sacred Orders, or Regular Canons or Monks, who presumptuously contract marriage after having taken a solemn vow of chastity; and also all those who presumptuously contract marriage with any of the aforementioned persons (1). Furthermore, those who communicate with a known delator of clerics; but concerning this censure, mention is made only in this and the preceding article. Therefore, today, only those specifically excommunicated by the Pope remain under the penalty of avoiding excommunication; and all those who communicate with these individuals in this criminal act incur a greater excommunication, which is also reserved to the Roman Pontiff; and clerics who knowingly and willingly communicate in the divine sacraments and receive those who are excommunicated, incur this censure. This sanction, as far as clerics are concerned, is taken verbatim from the chapter which signifies the sentence of excommunication, in which Clement III responded thus: "Indeed, those clerics who knowingly and willingly participated with those excommunicated by us, and who received them in the services, we do not doubt that they are involved in the same excommunication as them, and we wish to remit them for the sake of absolution, according to the suggestion of your letters." However, the first sanction, which applies to all, is taken from chapter *Nuper*, in the same title, in which Innocent III wrote, among other things: "In the second question, we believe that a distinction must be made, whether he who communicates with a named excommunicated person knowingly participates in the

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crime, offering counsel, help, or favor; or in other ways, through prayer or a kiss, or by praying with him, or even by eating with him. In the first case, when someone communicates in the crime and participates with the excommunicated person, and thereby seems to be guilty of the crime against him who condemned him, absolution will be required from him or his superior, because the one who acts and consents is subject to the same penalty! In the second case, from his own Bishop, or from his own priest, etc. But this second case, concerning the one who communicates outside of the crime, after the Constitution of the Apostolic See, no longer carries the aforementioned lesser censure; but only the greater excommunication, which is reserved, applies to all who participate in the criminal act, because the one who acts and consents is subject to the same penalty; and also to clerics who knowingly and willingly communicate in the administration and reception of the sacraments and other divine rites. (1) It may be asked whether the aforementioned persons, if they merely contracted betrothal, would incur this censure. Answer: They would not incur this censure; the reason is that the legal words "presuming to contract marriage" do not signify "actually contracting marriage." To incur this censure, both the celebration of the marriage and the knowledge of its nullity are required, due to the law or the solemn vow of chastity, and this knowledge, when joined with the celebration, is expressed through the words "presuming to contract marriage." Furthermore, it is asked: if such ineligible persons were to contract only a civil marriage, where the Decree of Trent, chapter 1 of session 24, concerning impediments to marriage, was published, would they incur such a censure? Answer: They would incur such a censure. The reason is that...

[*Latin ed. p. 646*]

Those who procure an abortion, and with it achieve the desired result (1), incur the censure imposed, and we do not wish that any person mentioned in this censure should incur other penalties, which presume that marriage has been nullified. But what is the law if this presumption is false, that is, if it is presumed that a contract has been entered into which has the form of marriage? It cannot arise from human frailty, but from the obstinate persuasion that marriage has been contracted. Although a marriage is valid, because the Church cannot render a civil marriage valid (because of an impediment that annuls such marriages, which we call clandestine marriage, due to the lack of form prescribed by the Church under penalty of nullity), it is nevertheless a contract, which, according to the laws of nature, would be a true marriage; therefore, even if, through an accident, it lacks the prescribed form, it is nevertheless null, but in itself it retains the form of marriage, and has no other form; so that civil marriage has no validity, because betrothals have a different nature; therefore, those persons who are already incapable of contracting marriage, presuming that they have

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contracted a marriage that has the form of marriage, which would be null, incur the censure from at least two grounds.

(1) In this canon, no distinction is made between a living and an unliving fetus, and therefore we must not make a distinction. Clemens had already sanctioned this according to the norm of the ancient canons in the Council of Vienne, by the Constitution which begins "Clement, unica de Consanguinitate et affmit," in these words: "Those who, setting aside the fear of God, procure abortions, and therefore, whether the woman herself procures the abortion, or someone else, without making any distinction between persons... with monks and nuns and clerics in the sacred orders who contract marriages, fearing to restrain them: and also, those who procure abortions, so that they may incur the censure, it is necessary that the effect follow, so that those who do not achieve the desired result are immune from the penalties of this temerity by excommunication. But those who, under the name of procuring, with audacious desires, are subject to the sentence of excommunication by the very act, we decree: that bishops of churches, if it appears to them that anyone has contracted marriage in this way, publicly announce that such persons are excommunicated, until the person who procured the abortion, whether of a living or unliving fetus, formed by the choice of poisons, medicines, potions, herbs, or by the labors of a pregnant woman, humbly recognizes the error and obtains the benefit of absolution. By the aforementioned rights, those who are burdened by such contracts,..."

[*Latin ed. p. 647*]

"Those who knowingly use false apostolic letters, or those who cooperate in such a crime (1), or who, through other reasons, even unknown or most subtle, cause an abortion to occur." It may be asked, what should be thought if an abortion has indeed occurred, but from another accidental cause, and whether those who procured it would incur this censure? Answer: They do not seem to incur this censure, if it can be sufficiently established that the means used were ineffectual, or if it is established that the effect should be attributed to an accidental cause. The second article also clearly states the words of the Sixtine Constitution, namely, that an abortion has indeed occurred; these words are joined with the means used deliberately, and the effect with its efficient cause. Sixtus V, in the aforementioned Constitution, with the severity of justice with which he was inflamed in matters of crime, imposed penalties on all those who could, for the abortion of a living or dead fetus, and even on those who sought sterility; but later, Gregory XIV largely mitigated this Constitution through the Constitution, Sedes Apostolica, published in 1591, and the other canonical penalties imposed by the Sixtine Constitution seem to have been reduced to common law; that is, if the abortion was of a living being, those who were the cause of the abortion are punished with the penalties with which

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murderers are punished in law. Note, however, that such penalties and other similar ones imposed by the holy canons are generally not ordered for execution, unless by a declaratory sentence of a judge; this is introduced by the equity of canon law. (1) This article scarcely needs explanation; however, it is fitting to refer to some documents for instruction, which, although contained in the Decretals, are known to few. Innocent III, in chapter 4 on the Crime of Falsehood, in order to avoid also the danger, which was not uncommon at that time, that apostolic letters might be forged, established this: "We decree and, under the penalty of excommunication and suspension from the order and benefice, we strictly forbid anyone from receiving our letters at the Apostolic See, except from us or from the hands of those who are appointed for that purpose by our mandate. If, however, a person of such authority exists that it is proper for them to receive our letters through a messenger, they shall send a suitable messenger to our Chancery or to us ourselves, through whom the apostolic letters shall be received according to the prescribed form. If anyone transgresses this mandate, if he is a layman, he shall be subject to excommunication; if he is a cleric, he shall be suspended from office and benefice." Furthermore, we decree that you promulgate a general sentence of excommunication, which you shall have frequently renewed in each parish, so that if anyone knows that he has false letters, within twenty days he shall either destroy those letters or surrender them, if he wishes to avoid the penalty of excommunication, which, unless by a special mandate from us, we do not wish to be remitted by anyone, nor shall anything have validity even if absolution has been presumed against this." And in chapter 7 of the same title, after having imposed the most serious censures and canonical penalties on forgers, he decreed as follows concerning those who use false apostolic letters: "But if clerics use letters falsely in our name, they shall be deprived of ecclesiastical offices and benefices; if laymen, they shall remain subject to excommunication until they make adequate amends, but in both cases, malice shall be punished more severely than negligence." The same Pontiff gave various indications from which the falsity of apostolic letters could be argued; for example, in chapter 6 of the same, to the Bishop of Antimachia, he wrote shrewdly about his delay.

[*Latin ed. p. 648*]

— 32 — Excommunications of the lesser degree are not reserved to anyone. "We declare that excommunications of the lesser degree are not reserved to anyone: "Those who command or urge that notorious heretics or those explicitly excommunicated or interdicted be given ecclesiastical burial (1), wrote: "Indeed, having examined more carefully the letters that were presented to you under our name, we find falsehoods in them, both in their content and in their wording; and we were astonished that you believed such letters to have come from us, when you should know that the

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Apostolic See maintains the custom in its letters of addressing Patriarchs, Archbishops, and Bishops as 'brothers,' and others as 'Kings, Princes, or of whatever order,' calling them 'sons' in our letters. And since our letters are addressed only to one person, we never speak to that person in the plural, nor do we add phrases like 'you' or 'yours' in the letters themselves. But in the false letters presented to you, you are called 'beloved son in Christ,' whereas in the letters that we sometimes sent to you, you can see that we called you 'venerable brother.' Therefore, you should carefully examine the Apostolic letters, both in the seal, the thread, and the paper, as well as in the handwriting, so that you do not, in any way, mistake true letters for false, or false for true." (Regarding notorious apostates from the Christian faith, who are considered in the same light) or of those explicitly excommunicated, or of those explicitly interdicted. Previously, such censure extended to many, according to chapter 2 on Heretics in the 6th book, in which Alexander IV decreed: "Whoever knowingly and presumptuously has caused heretics, believers, recipients, defenders, or supporters of them to be given ecclesiastical burial, shall be subject to the sentence of excommunication until they have made suitable amends; and they shall not deserve the benefit of absolution unless they publicly and openly excommunicate and reject such condemned bodies; and that place shall forever lack burial." Then, Clement V, in the Council of Vienne, as it is read in Clement, chapter 1 on Burials, decreed: "Those who, through their own audacity, have buried the bodies of the dead, without respect for the keys of the Church, in cemeteries during the interdict, in cases not permitted by law, or who are excommunicated or interdicted, shall be excommunicated." And in chapter 9 of the same title, it is written: "Having carefully examined the letters that had been presented, which were found to contain falsehoods, we decree that those who, by the very act of presenting such false letters, have given a sign or suspicion of falsehood, shall be subject to the sentence of excommunication, from which they shall not be absolved unless they first exhibit to the ordinary Bishop, to whom the injury has been caused, a suitable satisfaction, and no interpreter of the canons shall approve a rescript, even if a few letters have been erased in a place where, under any form of words, suspicion arises, unless it is clearly evident." (1) Such censure is restricted to those who command or urge... when it comes to burying notorious heretics. The same interpreters of the canons under this censure included those who opened the ground.

[*Latin ed. p. 649*]

— 33 — II. Those who injure or terrify Inquisitors, informers, or other ministers of the Holy Office; or who tear or burn the writings of that Sacred Tribunal; or who provide assistance, counsel, or favor to any of the aforementioned.

III. Those who alienate and presume to receive ecclesiastical goods with-

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out Apostolic approval, contrary to the form of the Extravagant, *Ambitiosae*, *De Reb. Ecc. non alienandis* (1).

IV. Those who negligently or culpably omit to denounce within one month confessors or priests from whom they have been solicited concerning detestable matters in any of the cases expressly mentioned by Our Predecessors, sending, commanding, or granting burial, or procuring it, and also those who cooperate, associate, or carry the cross and bear lights; because all these participated in a criminal act subject to excommunication. See below, p. 50, in the note.

(1) The Constitution, which begins *Ambitiosae*, which is read in the Sixth book of Decretals, Extravagant, chapter one, concerning ecclesiastical matters not to be alienated, "was issued by Paul II in the year 1467. This Constitution is widely cited in legal proceedings concerning contracts of ecclesiastical property, and it provides the following regarding immovable and valuable movable goods dedicated to God, which belong to churches, monasteries, and pious places: 'We prohibit, by this Constitution, the alienation of all ecclesiastical things and goods, and every agreement by which the ownership of these is transferred, concession, mortgage, lease, or tenancy for more than three years, as well as feudalization or an emphyteutic contract, except in cases expressly provided by law, and concerning things and goods that have been granted in emphyteusis from ancient times, and concerning fruits and goods that cannot be preserved without being preserved for the exigencies of the present time, these prohibitions being perpetual. We maintain in full force the prohibitions and decrees of Our Predecessors on this matter, which are renewed by the tenor of the present document.' If anyone should presume to alienate anything concerning the same goods and things contrary to the series of prohibitions of this Our decree, such alienation, mortgage, concession, lease, tenancy, and feudalization shall be entirely without force or validity. And both he who alienates, and he who receives the alienated things and goods, shall incur the sentence of excommunication. To him who alienates the goods of churches, monasteries, or any pious places, without the consent of the Roman Pontiff, or contrary to the tenor of the present Constitution, if he holds a pontifical or abbatial dignity, complete and absolute interdiction from the church shall be imposed,' etc., and other canonical penalties follow. Compare what I have written in the note to chapter U, session 22 of the Council of Trent, which you will find below on page 35. Concerning the cases that are excepted from the Constitution *Ambitiosae*, see Appendix XI.

[*Latin ed. p. 650*]

—by order of Urban VIII, Constitution *Universi*, August 20, 1622, and by Benedict XIV, Constitution *Sacramentum Poenitentiae*, June 1, 1741 (1). "Besides these previously mentioned cases, there are also those expressed in the Constitution of Gregory XV, *Universi*, as follows: "§. 4....

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We decree and declare that all and each priests, whether secular or belonging to any order, institute, society, or congregation, even those exempt in any way and immediately subject to the Apostolic See, of whatever dignity and rank, or endowed with any privilege, who shall have attempted to solicit or entice any person, whatever that person may be, to commit dishonest acts, either among themselves or with others, in the very act of sacramental Confession, or before or after, immediately or by occasion or pretext of such Confession, or outside the occasion of Confession, in the confessional or in any other place where sacramental Confessions are heard, or who shall have pretended to hear Confessions there, or who shall have attempted to solicit or entice them to dishonest and scandalous acts by words, signs, gestures, touch, or by writing, either then or after reading, or who shall have had with them illicit and dishonest conversations or dealings, are subject to excommunication."

"§. 1. We command all confessors to warn their penitents, whom they know to have been solicited as above, of the obligation to denounce the solicitor...."

The cases expressed in the Constitution of Benedict XIV, *Sacramentum Poenitentiae*, are as follows: "Whoever shall have attempted to solicit or entice any penitent, whatever that person may be, either in the very act of sacramental Confession, or before or immediately after Confession, or by occasion or pretext of Confession, or even outside the occasion of Confession, in the confessional or in any other place designated or chosen for hearing Confessions, by pretending to hear Confessions there, to commit dishonest and scandalous acts, either by words, signs, gestures, touch, or by writing, either then or after reading, or who shall have had with them illicit and dishonest conversations or dealings with reckless audacity."

Here, one might ask: 1° From what day, month, is the time for denunciation to be calculated, after which excommunication is incurred? 2° If a certain time was granted for denunciation, and the person solicited falls into excommunication through negligence or fault, can that person be absolved from the excommunication by the confessor?

Answer: To the first question: The time for denunciation begins from the certain knowledge of this obligation and simultaneously from the certain knowledge of the time prescribed for denunciation; for there are two obligations: one to denounce, and the other to denounce within a month; therefore, a person solicited, who knew only the obligation to denounce under pain of excommunication, but did not know that they were bound to do so within a month, would not immediately fall into excommunication after a month had elapsed; I said not immediately, because they could fall into excommunication if, having knowledge of the obligation under the said pain of excommunication, they still negligently delay fulfilling it, since a grave and urgent obligation seems to have been neglected if it is culpably

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prolonged beyond a month. Likewise, they would not be bound to make denunciations if they did not certainly know that they were bound to do so. The confessor, who knows that a penitent has been solicited by another according to the aforementioned cases, whether that penitent consented to the solicitation or not, is bound to warn them of their own obligation; and from that day, the time for denunciation begins to run. To the second question, it seems that the penitent can be absolved by the confessor if they promise to denounce as soon as possible; for in this article, there is not that clause, "until they have denounced," which is found in Article IV concerning excommunications reserved to the Pontiff. How the confessor should act to assist and instruct the penitent in denouncing is shown in Appendix XI.

[*Latin ed. p. 651*]

35 — We likewise declare those [individuals] to be excommunicated; except for the penalty of anathema established in Decree Session IV, concerning the publication and use of sacred books, to which we wish only those to be subject who print, or cause to be printed, books concerning sacred matters without the approval of the Ordinary (1). Here, we pause briefly, having inserted the penalties of excommunication imposed by the Council of Trent, which pertain to discipline, along with the reservations added by it, and then we shall proceed to explain the Constitution concerning which we are speaking. Concerning those who usurp any ecclesiastical goods or rights, whose excommunication is reserved to the Roman Pontiff by the Council of Trent. Session 22, chapter 11, concerning reforms: "If any cleric or layman, whatever his dignity, even imperial or royal, should..."

Here, one might ask, what books fall under the name of books concerning sacred matters? Answer: By the name of books concerning sacred matters, those are to be understood which the Council of Trent, in Session IV, concerning the publication and use of sacred books, understood; that is, the books of sacred Scripture and the annotations and expositions of those same books. The Council of Trent issued that decree after having issued a dogmatic decree concerning the canonical Scriptures, by which, with supreme wisdom, it determined the canon of books divinely inspired, according to the tradition of the Church; and furthermore, after having determined that, of all the Latin editions of sacred Scripture circulating at that time, the Vulgate edition was to be considered the authentic one; and in order that these decrees might not be perverted, it strictly forbade the publication of books concerning sacred matters without the name of the author. The decree which is contained in the Constitution of the Apostolic See was as follows: "But wishing also, as is fitting, to impose limits on printers in this matter, the Holy Synods decrees and establishes that, henceforth, no one shall be permitted to print or cause to be printed any books concerning sacred matters without the name of the author, nor shall

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they be sold or even kept by anyone in the future, unless they have first been examined and approved by the Ordinary, under the penalty of anathema and a fine established in the canon of the most recent Lateran Council. And if they are members of religious orders, they shall also be required to obtain this permission from their superiors, after the books have been examined and approved by them, according to the form of their regulations. Those who communicate and publish such books in writing, unless they have first been examined and approved, shall be subject to the same penalties as printers. And those who have or read such books, unless they reveal the authors, shall be considered as authors." That decree of Trent, concerning censorship, is now restrained.

[*Latin ed. p. 652*]

— 36 —. Let him be subjected to an anathema for as long as he has usurped, through himself or others, by force or intimidation, or even through supposed persons of the clergy or laity, or by any artifice or pretext whatsoever, the jurisdictions, goods, revenues, and rights, even feudal and emphyteutical rights, and the fruits, emoluments, or any other gains, which ought to be converted to the necessities of the ministers and the poor, of any church, or of any secular or regular benefice, or of any other pious institution; or who has dared to prevent those to whom they rightfully belong from receiving them; until he restores to the church and its administrator, or to the beneficiary, the jurisdictions, goods, possessions, rights, fruits, and revenues which he has usurped, or which have come to him in any way, even through a donation from a supposed person, and afterwards obtains absolution from the Roman Pontiff. If he is the patron of that same church, he shall also be deprived of the right of patronage, in addition to the aforementioned penalties. Furthermore, a cleric who has been the author or accomplice of such a scandalous fraud and usurpation shall be subject to the same penalties, and shall also be deprived of all benefices, and be rendered incapable of holding any benefice, and may be suspended from the exercise of his office by the decision of his superiors, even after complete satisfaction and absolution from his ordinary (1). This applies only to those who, when treating of sacred matters, print or cause to be printed books without the approval of their ordinary.

(1) Compare this chapter of the Council of Trent with Article XI, which we saw above, page 11, and you will find that those who usurp and sequester jurisdictions, revenues, and possessions belonging to ecclesiastical persons by reason of their churches or benefices, were, according to this chapter of Trent, placed under the first class of excommunication, which is reserved to the special jurisdiction of the Roman Pontiff. This censure from the chapter of Trent, or the removal of the principal usurpers and sequestrators of ecclesiastical goods and jurisdictions, in order that they might be punished with a more severe censure, means that the words of

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Article XI are only valid as a new censure to the extent that they express it, as I noted there. But since the chapter of Trent remains in force, it follows that if those who usurp or sequester were able to evade the censure of Article XI for some reason, they would not easily evade the censure of Trent, which is somewhat milder, since it is indeed reserved to the Roman Pontiff, but not by a special mode.

Also, compare this chapter of the Council of Trent with Article XII, which you have on the same page 14, and you will find that those who, by themselves or through others, invade, destroy, seize, or detain cities, lands, places, or rights belonging to the Roman Church; or who usurp, disturb, or retain the supreme jurisdiction in them; and also those who give assistance, counsel, or favor to any of the aforementioned, were removed from the censure of Trent, in order that they might also be punished with a more severe censure, since they were involved in an act of greater importance, and that the same censure was extended to all collaborators.

Compare also the decree of Trent with Article III, which you have on page 33, and you will find that the article, which by a censure not reserved to anyone, condemns those who, presuming to alienate and receive ecclesiastical goods without Apostolic approval, according to the form of the "Extravagantes de Ambitiosae," is not itself included under the decree of Trent.

[*Latin ed. p. 653*]

The magistrate is excommunicated if, at the request of the Bishop, he does not provide assistance against those who oppose the enclosure of nuns, or those who violate their enclosure (cf. Leviticus 20:17; and Boniface VIII's Constitution, beginning "Periculoso," which renews the decrees of the Holy Council, addressing all Bishops concerning the legitimate administration of ecclesiastical goods; this administration, entrusted to Bishops and other ecclesiastical or legally authorized persons, does not extend to the point where they can alienate these goods in any way without Apostolic approval, except in certain cases). If an alienation occurs without Apostolic approval, it is not strictly considered an "usurpation" and is therefore not included in the aforementioned Tridentine canon. I stated that Article III, by itself, is not included in the Tridentine Decree; however, it could be included by accident, that is, when legitimate administrators of church goods alienate those goods in order to usurp them, for example, by selling them at a very low price in order to profit elsewhere. In this case, the title of illegitimate alienation would also cover the usurpation, and therefore the alienation would fall under the Tridentine censure imposed on all usurpers for any usurpation of ecclesiastical goods, made by any means or under any pretext. This Tridentine provision is so broad that it includes all ecclesiastical goods, even those of pious foundations, which should be used for the needs of clergy and the poor, and all those who, in any way, usurp ecclesi-

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astical goods, or retain goods usurped by others, whatever means by which those goods came into their possession, even through supposed persons of the clergy or laity, that is, even when someone retains goods because they derived from clergy or laity who are the legitimate administrators of those goods, for example, through a donation made by them. And it includes not only those who have usurped goods or revenues, or who have prevented those goods and revenues from reaching those to whom they rightfully belong, but also those who have usurped the jurisdiction of churches or benefices, even of pious foundations, for example, those who have usurped the power to govern and administer these pious foundations, contrary to the laws prescribed in their foundations, independently of legitimate ecclesiastical authority, whether they are patrons or not. Furthermore, even if the clergy are legitimate administrators, if they do not usurp goods or jurisdictions, but are instigators of usurpation, or even if they only assist in the usurpation with their consent, they are subject to the same penalties. It can easily be asked whether those who purchase ecclesiastical goods usurped by usurpers fall under this Tridentine censure. The reason for doubt is that this case does not seem to be considered in the Tridentine canon; for he who acquires usurped goods through a burdensome contract does not seem, strictly speaking, to be a usurper. Moreover, the Tridentine provision seems to speak only of those who usurp goods under any pretext and for any reason, and not of those who redeem goods sold at a fair price. All the more so, since we are dealing with a censure, we should not extend the words of the provision beyond their literal meaning. In response: Those who purchase usurped ecclesiastical goods are included under the sentence of the Tridentine provision, even if they are not included in the literal words of that provision. The law is that any usurpation of ecclesiastical goods is subject to the same censure. However, he who buys goods usurped by usurpers, by his action, participates in the usurpation, and the goods he acquires do not cease to be usurped goods because of the price paid to the usurper, since he is not the true owner or, at least, the legitimate administrator of those goods. However, the argument that we should not extend the censure beyond the literal words of the provision is a legal sophism in this case, for it is certain that he who, while adhering to the words of the law, acts contrary to the intent of the law, violates the law. The true rule of law is the intent of the law, not merely the letter.

[*Latin ed. p. 654*]

By the invocation of divine judgment and the threat of eternal damnation, it commands that in all monasteries subject to it, the sanctity of the cloister be diligently restored where it has been violated, and where it remains intact, it be most carefully preserved; and that those who disobey and oppose this be compelled by ecclesiastical censures and other penalties, whatever appellation may be added, and that, if necessary, the aid

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of secular authority be invoked for this purpose. To ensure that this aid is provided, the Holy Synod exhorts all Christian Princes, and under the penalty of excommunication incurred by the very act, it commands all secular magistrates (1).

"No one of any kind or condition, sex, or age, shall be permitted to enter within the enclosure of the monastery without the written permission of the Bishop or Superior, under the penalty of excommunication incurred by the very act (2)."

"Those who abduct others, and their accomplices, are excommunicated. Session 24, chapter 6, concerning the reform of monasteries. The Holy Synod decrees that, as long as the abducted person remains in the power of the abductor, no marriage can exist between them. But if the abducted person is separated from the abductor and, being placed in a safe and free place, considers him to be a man worthy of marriage, the abductor may take her as his wife; nevertheless, the abductor himself, and all those who have given him counsel, aid, or favor, are, by law, excommunicated (3)."

"Those who violate the freedom of marriage are excommunicated. Session 24, chapter 9, concerning the reform of monasteries. Thus, it often happens that the minds of temporal lords and magistrates are blinded by law. Rule 88, section 6. When others are invoked, the rules of law must be kept in mind, but it must be understood that the law does not arise from the rules, but rather the rules arise from the law; therefore, the sense derived from the law must be preferred, and the rules must be understood according to the law. With these principles established, it becomes clear how little the rules of law serve in the interpretation of laws, and how easily juridical sophisms can be committed if we use these rules indiscriminately, neglecting the nature and intent of the laws. But if such buyers could escape this censure of Trent for some just cause, they would easily fall under the censure of the Constitution Ambitiosa. Terrestrial affections and cu-"

(1) "However, this censure, in the present state of society, seems to have fallen into disuse due to its lack of application."

(2) "This censure is now included in Article VI of the Constitution on Excommunication, B. Pontifical, special, modified, and is therefore converted into that expressly stated in the same Article."

(3) "This censure remains in force, although during the time of the Council of Trent, cases of this kind were much more frequent than in our time. For, at that time, unbridled men were more intent on committing such crimes, than on ideas and passions that were more noble."

[*Latin ed. p. 655*]

— Thirty-nine prelates blind with avarice compel men and women, living under their jurisdiction, especially the wealthy or those with the expectation of a large inheritance, to enter into unwanted marriages, forcing

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them to marry those prescribed by their lords or magistrates. Therefore, since it is most heinous to violate the freedom of marriage and injustices arise from those from whom justice is expected, the Holy Synod commands all, of whatever rank, dignity, and condition they may be, under pain of anathema, which they incur by the very act, not in any way, directly or indirectly, to force their subjects or any others to refrain from freely entering into marriage (1).

Those who compel a woman to enter a monastery, or prevent her from doing so, are excommunicated. Session 21, chapter 18, concerning the Anathema. The Holy Synod subjects all and each person, of whatever quality or condition they may be, both clerics and laity, secular or regular, and even those holding any office, to an anathema, if they have in any way compelled a virgin or a widow, or any other woman, except in cases expressly stated by law (2), to enter a monastery, or to take the habit of any religious order, or to make a profession, and those who have given counsel, assistance, or favor, and those who, knowing this, have not allowed her to freely enter the monastery, or (1) Similarly, this censure remains in force against lords or magistrates who compel their subjects to refrain from freely entering into marriage, although such cases were very frequent during the time of the Council of Trent, due to their being of a much lesser age.

(2) The cases expressly stated by law are reduced to these: In chapter 18 concerning the conversion of married couples, Innocent III is recorded as having written concerning the same case: "A woman informed us that, although she had given her husband, before the Dean of Saint Quiricus, acting as the vice of the Archbishop of Sens in this matter, permission to enter religion; a vow of continence having been imposed upon her, and the faith received from her that she would remain perpetually chaste, the same Dean, after the aforementioned husband had made his profession in the monastery where he had taken the monastic habit, asserted that she should enter religion, although he had not initially expressed this to her, and had not given him explicit permission to do so. Therefore, we command that if this is the case, and there is no reason to suspect otherwise, you not allow the woman, who is observing her vow of continence, to be compelled to enter the monastery against her will."

From this chapter, the Glossa argues: "From the fact that it says 'if there is no reason to suspect otherwise, she should not be compelled,' I understand that if there is reason to suspect, she should be compelled to enter religion, from which she promised continence." Also, Gregory IX, in chapter 19 of the same title, considered another case, and wrote as follows: "However, women who have fallen into sin by abandoning the marital state, if their husbands, having diligently warned them, have not wished to receive them back for the sake of God, you should place them with religious women in

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monasteries, so that they may perform perpetual penance there."

[*Latin ed. p. 656*]

— 40 — having accepted the habit, or having made a profession, in any way having interposed their presence, consent, or authority to that act. He also subjects those who, without just cause, have hindered the will or the taking of vows of holy virgins or other women, to a similar anathema. "Let those who fight and the rest who permit or assist, or support, a duel, be excommunicated. Session 2, 5, from chapter 19 concerning Reforms. The Emperor, Beges, Dukes, Princes, Marquises, Counts, and whatever other name temporal lords may have, who have granted a place for a duel within their territories among Christians, are, by this very fact, excommunicated. Those who have committed a fight, and those who are called their sponsors, incur the penalty of excommunication... Also, those who have given counsel in the cause of a duel, whether in law or in fact, or who have, by any other means, encouraged someone to do so, as well as spectators, are bound by the bonds of excommunication and perpetual malediction (1)." These are the excommunications which we find in the Council of Trent. Following is a strict Constitution, which we have assumed was imposed by the Most Holy Lords. Suspensions already pronounced are reserved to the Supreme Pontiff. I. "Those who, by their very action, incur a suspension from the enjoyment of their benefices, at the discretion of the Holy See, are the Chapters and Conclaves of Churches and Monasteries, and all others who receive Bishops or other Prelates for the governance and administration of these Churches or Monasteries, who have been appointed by the same Holy See in any way, before they have presented Apostolic Letters of their promotion (2). (1) This censure is already included under Article III, which you have on page 17, and therefore is referred to it. (2) This censure originated from the Extravagantes of Boniface VIII, concerning Elections, chapter 1, among the common decrees, where, among other things, Boniface VIII decreed: "Therefore, with this perpetually valid Constitution, we decree that Bishops and other Prelates, as well as Abbots, Priors, and others of monasteries..."

[*Latin ed. p. 657*]

41 — n. Those who ordain someone without a title to a benefice or endowment, with the agreement that the ordained person will not seek support from them, incur a suspension for three years from the conferral of orders. Those exercising jurisdiction, by whatever promise or oath they may be considered bound to those who are under that jurisdiction, who do not promote, or who hinder the promotion, confirmation, or consecration of those under their jurisdiction, or who confirm them, are judged to receive, for three years, a dispensation concerning the promotion, confirmation, consecration, or blessing of those under their jurisdiction, and those

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ordained by such persons will obtain, through that dispensation, a means of being absolved from the suspension.

This disposition of law, as is evident, has been newly introduced, for it is only those who ordain who incur this suspension.

This disposition is found in the Decretals under the title concerning Simony, because it pertains to the sin of simony. The Council of Trent did not derogate from this disposition of law, but rather, on the contrary, it reaffirmed the ancient canons in this matter. For the Council of Trent, when treating of the title concerning ordination in session 21, De Reform., in chapter 2, used these words: "The penalties of the ancient canons concerning these matters are to be renewed; therefore, the disposition of Gregory IX, of which I speak, should be considered renewed, although it might have been imposed under the appearance of simony."

There is no reason to doubt that, after the Council of Trent, these words: "The penalties of the ancient canons concerning these matters are to be renewed," refer to the very disposition of Gregory IX, and not to some other penalties. For there were no penalties in the ancient law, referred to in the Decree of Gratian, canons Neminem and Sanctorum, dist. 70, by which the perpetual deprivation of the power of ordination was inflicted upon those who ordained without a title, and that in order to injure the one who was ordained without a title; but there were other, less ancient, penalties, which derogated from those most ancient ones, and these are the ones that are mentioned in the Decretals, chapters 2, 4, 16, and 23, De Praebendis, and chapter 37 of the same title, in 6°. These penalties do not affect the ordained, but the ordainers, and without censure. For in these chapters, this principle is contained: the ordainer without a title of the clergy is censured.

[*Latin ed. p. 658*]

42. Those who, by law, incur suspension from the administration of the Orders for a year are those who ordain a subject of another, even under the pretext of conferring a Benefice, whether immediately or already conferred, but which is by no means sufficient, without the dismissal letters (1) of that Bishop, or who, even if the subject is in another diocese, are obligated to provide him with suitable sustenance until, by the one who ordained him or by another consulted, he is provided for according to the title of ordination. The Holy Congregation, as the authentic interpreter of the Council of Trent, according to what Fagnanus states in chapter "Cum Sedendum, de Praebendis," number 63 and following, has held that the ancient penalty should not be understood to be renewed, because that penalty had already been repealed by subsequent canons, when we are dealing with one who is ordained without a title, without fraud being involved; but if fraud is present, for example, due to a false title by which the ordained deceives the Bishop, then Fagnanus maintains that the ancient penalty applies to the one so ordained. On this matter, see Appendix XI.

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Response: No censure remains, either because the suspension ceased under Urban VIII, or because the expression in Trent, which seemed to introduce new penalties regarding these matters, about which, as I have explained, there has long been doubt, also seems to have ceased, since the Constitution, "Apostolicae Sedis," which renews the censures of Trent, does not seem to have renewed the censures of Trent indirectly imposed; on this matter, see Appendix XIV.

(1) According to the Holy canons on Holy Orders, one is considered and is a subject of a Bishop for the purpose of ordination if he is not subject to that Bishop by reason of origin, or by reason of domicile, or by reason of familiarity, or by reason of a Benefice; for whoever possesses any one of these four titles is already considered a subject of the Bishop for the purpose of receiving ordination.

From the Constitution of Sixtus V, "Sanctum," with the two titles that can be salutary, published on January 5, 1589, it is easily seen that one depends on the will of the Bishop who ordains, such as the title of familiarity; moreover, that Pope, besides other penalties, suspended both the ordainer and the ordained, without any distinction, except for the title of a Benefice: if, therefore, one who is to be ordained holds a Benefice outside his own diocese, which provides sufficient income according to the laws of that diocese, and the Bishop is excused by a just error or a proven ignorance of the facts, then that Constitution, which was issued along with the common law and the Constitution of Pius II, "Cum Beneficium exstat," published on November 17, 1461, was later restored by Clement VIII in the Constitution "Rosarium Pontificem," published on February 28, 1596. The matter remained as it was before.

Therefore, the question arises: if a Benefice is not sufficient, due to meager revenues, to constitute a title for ordination, can it be supplemented by patrimony?

Response: It cannot be supplemented by patrimony; and if a Bishop were to ordain a Beneficiary with a supplement of patrimony, without the dismissal letters of his Bishop, he would be ordaining a subject and would incur suspension by law in this Article.

[*Latin ed. p. 659*]

— 43 — the case of a cleric who has resided elsewhere for so long that he might incur a canonical impediment there, without testimonial letters from the Ordinary of that place (1). This is done under the pretext of conferring a benefice that has already been granted, but which is by no means sufficient. For the celebrated Constitution of Clement XI, *Speculatores*, issued on November 4, 1694, which more fully explains and determines the Tridentine provisions regarding Holy Orders, remains in force regarding dispositions concerning sacred orders. Thus, that Pontiff decreed: "Although a cleric may be considered subject to the jurisdiction of the Bishop

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of the diocese in which he obtains a benefice by reason of any benefice obtained in that diocese, we wish to maintain the following rule in this matter, so that no one may be deemed to acquire such a subjection in order to receive the orders, unless the aforementioned benefice is sufficient, as to the proper support of life, either according to a synodal assessment, or, if one is lacking, according to the custom of the region, to promote him to the sacred orders, deducting the burdens, and that he peacefully possesses it, without any faculty of supplementing what is lacking from the fruits of the same benefice, even with the addition of a very substantial patrimony, which the one to be ordained would obtain in the same or any other diocese." In the Constitution *Speculatores*, it is expressly stated: "A cleric who has already been legitimately promoted by his own Bishop to the same clerical tonsure or even to lesser orders, cannot be promoted by another Bishop to higher orders by reason of and by the title of any benefice obtained in that diocese, unless he first obtains testimonial letters from his own Bishop, both concerning his origin and his domicile, regarding his birth, age, morals, and life, and presents them to the Bishop who is ordaining, to be kept in the records of that Curia." Furthermore, it may be asked, how is this reconciled with the Tridentine disposition in Session 23, canon 8, concerning benefices, which states: "Let each one be ordained by his own Bishop. But if anyone asks to be promoted by another, let this not be permitted to him, under any pretext of a general or special rescript or privilege, even for a limited time, unless his probity and morals are commended by the testimony of his own Ordinary. If this is not done, the ordaining one shall be suspended from conferring orders for a year, and the ordained one shall be suspended from exercising the orders received, as long as it seems expedient to his own Ordinary." It may also be asked, whether the Bishop incurs the same suspension if he ordains a foreign subject to whom a sufficient benefice has been conferred, and who does not have testimonial letters from another Bishop or other Ordinaries by whom he is also subject by other titles. However, he would incur the suspension if the rule expressed in the second part of Article III were violated, namely: or even a subject of his own diocese who has resided elsewhere for so long that he might incur a canonical impediment there. If this rule were not violated, for example, if the Bishop confers a benefice to a foreign cleric (for benefices cannot be conferred except upon those who have already been initiated with at least the first tonsure), who has resided in his seminary from his youth, it does not seem that he would incur censure. However, such a Bishop, although he does not incur censure, would violate ecclesiastical law. However, there is no opposition between this Tridentine disposition and Article III of the Constitution under discussion. For the Tridentine disposition seems to refer to the particular case of one who asks to be promoted by another who is not his own Bishop, neither by reason of origin or domicile, nor by reason of benefice or familiarity; it also refers to the

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case of one who may have obtained some Apostolic rescript, by virtue of which he could be ordained by another Bishop; and it also refers to the case of a Bishop who, by virtue of some privilege, could ordain anyone who comes to him, according to what is read in Session 14, canon 2, concerning benefices. In these cases, both the Bishop who would ordain a foreign subject without the aforementioned testimonial letters, and the one who is ordained, would incur the aforementioned Tridentine censure. (1) It may be asked, by what standard should the "time of residence elsewhere" be estimated?

[*Latin ed. p. 660*]

IV. The suspension from Holy Orders, by annual collation, is incurred by law itself against him who, except in cases of legitimate privilege, has received the sacred Order without a title of benefice or patrimony, while living as a cleric in some congregation where solemn profession is not made, or even as a religious who has not yet made profession (1). Under what penalty is the Ordinary bound to inquire whether testimonial letters should be given by other Ordinaries of the place? Answer: The norm for determining the time of a stay elsewhere is that indicated in the very Article by the words: "so that he may have incurred a canonical impediment there." However, it must be noted that we are not speaking of a philosophical possibility (for a canonical impediment can be incurred in the briefest of delays); but of a legal possibility, which, according to the circumstances of the place and the person, is more frequently subject to enforcement. The law refers to what frequently happens, and not to what rarely occurs, I. Non, ff. de Legibus. If, however, some rule is sought in this matter, the safest would be that which applies to testimonial letters regarding freedom of state for contracting marriage, which must be presented by those who have resided only for a time in various places, so that a document of freedom of state is considered necessary. It may also be noted that not all canonical impediments to ordination are of the same nature: some can be incurred in the place of origin or domicile, while others can be incurred in any place of residence, as is evident from the following list, which I take from Monacelli (Formularium legale practicum de Goliat, ordinum form. 1).

THOSE WHO CANNOT BE PROMOTED:

* Those not baptized, cap. Veniens de Presbyt.
* The unbaptized, can. Presbyter 56 dist.
* Minors of age, can. Qui in aliquo 51 dist.
* Those not confirmed, Conc. Trid. sess. 23 c 4 de Befor.
* Neophytes, dicto c. Qui in aliquo, can. Quoniam 48 dist.
* Those married, Extravag. Ioannis XXII, Antiquae.

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* Bigamists, can. Si quis 33 dist. et tot. tit. de big. non ordinandis.

* Criminals, can. Laici dist. 33; Concil. Trid. sess. 14 c. 7 de Befor.

* The infamous, can. Infames 6 q. 1.

* Those publicly implicated, can. Legem, 53 dist.

* Servants, c. De servorum, de sero. non ord.

* Eunuchs, can. Si quis, 55 dist.

* Those with bodily defects, can.

* Illiterate, 36 dist.

* Those conspicuously deformed, can. fin. 51 dist.

* The insane and the frenzied, dicto c. Qui in aliquo.

* Lunatics, can. Communiter 33 dist.

* Pilgrims and the unknown, dicto c. Qui in aliquo.

* Those devoted to drunkenness and gluttony, cap. 23 de vita et honest. cleric.

* Manifest usurers, c. Episcopus 47 dist.

* The heedless and the ignorant, Concil. Trid. sess. 23 per tot.

* Irregulars, c. Saepe de temp. ord. in 6".

* Suspended, Interdicted, Excommunicated.

* Those suffering from contagious diseases.

* Lanii, Cauponae, Mimi, Histriones.

* Those who have exercised cruelties, or have been followed by punishment or mutilation, can. Communiter, can. Clerici, dist. 33, cap. unie, de vita et honest. Cleric. in 6", Clem. 1 eod. tit., can.

* Those to whom 23 quaest. 8, cap. Sententia sanguinis applies.

* Neither clerics nor monks, cap. Ex litteris, de Excess, praelat.

* You will find on this matter Appendix XV, in which the Constitution Speculatores is also quoted in full, which, except for the penalty of suspension, remains in full force according to the Article under discussion.

(1) The Council of

[*Latin ed. p. 661*]

45 — V. "Religious persons who are expelled from the Orders and live outside their religious community are, by the very law, subject to perpetual suspension from the exercise of their Orders" (1). This situation arose because, according to the ancient custom, the title to a benefice or other ecclesiastical position was derived from the religious profession itself, by which the Religious person was perpetually bound to their Order, and from which they derived their rights. After the Council of Trent, Saint Pius V, in order to eliminate abuses by those who falsely claimed to be Religious or Regular clergy without having made a profession in an approved religious order, decreed that Regular clergy who had not made a profession should

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not be promoted to the sacred orders unless they held a benefice, endowment, or pension, and in no other way, under penalty of suspension. Thus did the Roman Pontiff enact this in the Constitution issued on October 14, 1568.

§. 2. "However, since no mention is made in this decree (Council of Trent, Session 21, Chapter 2, on Religious) of religious clerics, and therefore some, as we have unfortunately observed, of certain religious or canonical orders, or of clerics living within monastic or collegiate communities in the manner of Regular clergy, who never, or only for a limited time, make a profession, are freely and lawfully permitted to return to the world, and are not, according to the terms of the decree, to be promoted to the sacred orders, and are, by some bishops, promoted in this way, and from this often arises the unfortunate consequence that those who are thus promoted, and who leave the cloister and wander about the world, are compelled, to the detriment of themselves and the disgrace of the order, and to the scandal of many faithful, to beg or to engage in some sordid occupation."

§. 3. "We, therefore, who sincerely desire the honor and dignity of all these ministers, as far as is in our power, by our own authority and from our certain knowledge, and concerning the fullness of Apostolic power, extend and apply this decree, which speaks of secular clerics, to all and each religious or secular clerics of whatever order, who live in common in the manner of Religious, but who are not professed. We decree that Religious persons and others who are not professed, as mentioned above, shall not be promoted to the sacred orders; and we grant to all our venerable brothers, Patriarchs, Archbishops, and Bishops, who have the grace and communion of the Apostolic See, that we, by virtue of holy obedience and under the penalty of our displeasure, forbid and prohibit them from conferring the aforementioned orders upon such religious persons unless the form of the aforementioned decree is observed, and we suspend those who act in defiance of this, for a year from the performance of such ordinations."

§. 4. "We declare and decree that any promotions of the aforementioned religious persons to the aforementioned orders, made in violation of the form of the Council of Trent, even if any license has been granted for this purpose, are entirely null and void, and that such persons cannot exercise the ministry at the altar, etc." This second sanction, by which the Pope renewed the ancient canons Neminem 1 and Sanctorum 2, district 7, of which I spoke in the previous Article 11, is superseded by the Constitution of the Apostolic See. You will also find Appendix XV, in which I refer to the case of Tarvisina, concerning doubts about Holy Orders, which was discussed in the Holy Congregation of Bishops and Regulars and decided on May 6, 1864, which sheds light on the current discipline regarding Holy Orders with regard to ecclesiastical institutes in which solemn profession is not made; this case is reported by Cardinal Bizzarri in Collectanea in usum

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Secretariae S. Congr' Episc, et Reg. page 760.

(1) These words of this article are taken from the Decrees of the Holy Congregation of the Council, issued under Urban VIII on September 21, 1624; they are inserted as they stand in the Roman Bullarium. In paragraph 10 of these Decrees, the following is read: "Also, the Holy Congregation decreed that those who are expelled..."

[*Latin ed. p. 662*]

— 46 — VI. Those who, by their own action, incur the penalty of suspension from the Order, are those who have presumptuously received into the same Order individuals who are excommunicated or who live outside the Church. Such individuals are perpetually suspended from the exercise of their orders, unless the local Ordinary has the power to relax or modify this suspension. Furthermore, in §. 6 of these Decrees, the Holy Congregation established that a judicial process must be followed in order to expel Regular Canons; and that they cannot be expelled unless they are incorrigible. And in §. 11, the Constitution of Gregory IX, in chapter fin. concerning Regular Canons, was renewed, in which the constitution of the Council of Lateran under Innocent III is mentioned. This Constitution of Gregory IX reads as follows: "Lest those who are religious, having the opportunity to wander, incur detriment to their own salvation, and their blood be required at the hands of the prelates, we decree that the presidents of Chapters, according to the statute of the general council, or the Abbots or Priors, diligently inquire each year for their fugitives and those elected from their Order. If they can be received into their monasteries according to the regular rule, the Abbots or Priors of those monasteries are compelled, after previous warning, by ecclesiastical censure, to receive them, provided that the discipline of the Order is observed. If this is not permitted by the regular Order, they shall, by our authority, provide that, if it can be done without grave scandal, in those monasteries in appropriate places, otherwise in other religious houses of the same Order, the necessary provisions for their life be made so that they may do penance there. If they find such fugitives or elected individuals who are disobedient, they shall excommunicate them, and shall publicly denounce them as excommunicated by the prelates of the Church, until they humbly return at the command of those prelates." This Decree was renewed with these words in the aforementioned §. 11 of the Decrees of the Holy Congregation: "And finally, the Holy Congregation judged (and innovates with its authority) that the aforementioned blessed Constitution of Gregory IX, referred to in chapter fin. concerning Regular Canons, should be renewed, and furthermore declares that this Constitution applies to those who have been justly and definitively expelled, and in accordance with the order of law; provided, however, that there is clear hope of amendment in those who have been expelled, at least by testimonial letters from the Ordinary, to whose

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conscience the Holy Congregation has seriously entrusted the granting of such letters." It may be asked whether those who are unjustly expelled from the religious life incur this perpetual suspension. Answer: They appear to incur it. The reason is that in this Article, there is no distinction made between a just or unjust expulsion, but only the addition of the words "living outside the Church." Therefore, those who have been expelled and live outside the Church, whether they were justly or unjustly expelled, remain suspended from the exercise of their orders as long as they live outside the Church, whether outside their own Order or outside another Order into which they may canonically transfer. However, those who believe that they have been unjustly expelled from the religious life have legal remedies through an appeal to the Holy See, but they are not heard if they live outside the Church, according to canon 19 of the Council of Trent, session 25, on Regular Canons, unless they first obtain the right to appeal while living outside the Church. If you ask what is the canonical reason to which this Article V is directed, it seems to be this: He who is expelled from his religious Order, by that very act, loses the title of his ordination; indeed, the Church to which he is attached, and simultaneously, is bound by a very grave obligation to provide for the fulfillment of the solemn vows made to God through the religious profession; therefore, there is no other recourse, unless he returns to his religious Order, if he does not transfer to another, or unless he can obtain from the Holy See a dispensation for laicization, so that, with the substance of the vows remaining intact, he may find a benevolent Bishop who will receive him. It may also be asked whether Regular Canons who are fugitives and apostates from the religious life are also included under the same censure of Article V:

[*Latin ed. p. 663*]

— 47 — suspended, or explicitly prohibited from exercising their ministry, or by a notorious heretic or schismatic: We declare that those who, in good faith, have been ordained by one of them, do not possess the right to exercise the functions of the Order thus received, unless a dispensation is granted (1). For the same canonical principle applies to those who are expelled, as it does to those who are suspended. Furthermore, heretics and apostates do not seem to be included under the same article; the reason is that, in law, apostates or heretics are sufficiently distinguished from those who are expelled: therefore, under the term "expelled," apostates or heretics are not understood. Nevertheless, the same canonical principle applies to both expelled and heretics insofar as they remain outside the Church, and therefore they could justly be subjected to the same penalty; nevertheless, another consideration applies to apostates and heretics. This is evident from the very Decrees of the Holy Congregation of the Council, published under Urban VIII: in these, those who are expelled are subject to the penalty expressly stated in § 10, while apostates and heretics are treated

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differently in § 4. "Furthermore," the Holy Congregation states, "heretics and apostates, whether they wear the religious habit or not, can and should be excommunicated by the local Bishop, according to the regulations of their respective orders, and the Superiors are also obliged to seek them out, to bring them back to the Church, and to ensure that they are apprehended; provided that the rights of the local Ordinaries are preserved, as decreed by the Council in chapter 3, session 6." Moreover, heretics and apostates do not enjoy any privileges of their order, Council of Trent, session 2, chapter 9, on Religious Orders, and are subject to other penalties according to the specific constitutions of each order, in which it is generally stated that excommunication is inflicted by the very act of apostasy. Thus, it was stated that those ordained by heretics do not enjoy the exercise of their order or any ecclesiastical dignity. For example, in chapter 1 on Schismatics, Alexander III stated in the Lateran Council, "We consider the ordinations made by Octavian and Guidone, the heresiarchs, and by those ordained by them, to be invalid, and we decree that those who have received ecclesiastical dignities or benefices through these schismatics shall be deprived of them." Similarly, in chapter 2 of the same title, Innocent III responded: "You can certainly remove a priest whom you claim was ordained by a schismatic from office, unless he has legitimately proven that he has been mercifully dispensed from this, and by someone who has the power to grant a dispensation." Even harsher are the statements found in the Decretum Gratiani on ordinations made by excommunicated persons and heretics, book 1, title 1, chapter 1, 2, 3, question 1, canon 9. (1) In this article, several things are determined that had been established in older canons, but which were not always clearly defined and circumscribed. It has always been the case that a sacramental ordination received from such bishops is valid in itself, if it has been performed according to the essential rite of the Catholic Church: but since these bishops lack all ecclesiastical jurisdiction, their ordinations are considered invalid, according to the old way of speaking. This principle of canon law is the basis of Article VI, which we are discussing. However, these principles of law were subject to some difficulties; for the question arose as to whether bishops who are excommunicated should be reported so that those ordained by them would incur the same penalties; whether those ordained by a suspended bishop or one who is prohibited should be punished in the same way; whether those who are ordained in good faith by suspended excommunicated persons should be subject to penalties. Suarez, in chapter 2, on those ordained by a bishop who has renounced his bishopric, responded: "Bishops can dispense those clerics who have received orders from an excommunicated bishop, through their own authority." Similarly, in chapter 1 of the same title, regarding those ordained by a bishop who has renounced his bishopric and ecclesiastical dignity, Alexander III stated: "Indeed, if anyone knowingly receives the sacred orders from him, he will not have the right to exercise his office, because he

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has made himself unworthy; but if he does not knowingly, then a prudent Pontiff can grant a dispensation, unless the ignorance is gross and blatant."

[*Latin ed. p. 664*]

— 48 — Canon 1. Secular clergy who are non-residents and remain in the City for more than four months are ordained by someone other than their own Ordinary without the permission of the Cardinal Vicar of the City (1), or without a prior examination before him, are subject to censure. See canons 31, section 2, of the decrees on censures, and page 5 of the decrees on censures. However, this censure does not apply if the offense is not penal, and therefore, no culpability is required. Conversely, Diana, part 1, treatise 10, reason 39, and Turrian hold the opposite view, claiming that the cited laws could be interpreted as applying to culpable ignorance. This matter is now resolved in the same canon. Therefore, those who are suspended remain suspended if they presumptuously received the order from those from whom they should not have received it, and this suspension is reserved to the Roman Pontiff. However, it may be asked whether the suspension of those who received the order in good faith is also reserved to the Roman Pontiff, due to the words of the canon: "We declare that those who are ordained by someone without their knowledge shall not exercise the order received until a dispensation is granted." It does not seem to be reserved; thus, the indefinite words "until a dispensation is granted" contain a clause as a matter of law. However, this dispensation is not reserved, as is evident from the cited legal canons, which can be seen in Appendix VII. Furthermore, it may be asked whether there is a difference in the way these terms are used in this canon: "suspension from the order" and "suspension from the exercise of the order." It seems to me that there is a difference, according to what the Theologian wrote in his most learned work on penalties, paragraph 2, words "Ordo," chapter 24, with these words: "The limit is that if someone is promoted through total ignorance of the ordainer's vice, then he is not properly suspended or irregular, but improperly, insofar as a dispensation is not required before ministering in the received order." For the legal meaning of not having the execution of the order or the exercise of the order, see Appendix XIII. (1) It may be asked, who are the "non-resident" clergy? They are all clergy who do not belong to the Roman diocese, nor do they belong to the six suburban dioceses; for the clergy of the suburban dioceses, a special provision is made in another part of the canon. Furthermore, I ask, can non-resident clergy, who, after completing four months of residence in Rome, obtain dismissal letters from their Ordinary and leave the City with the intention of not returning to Rome, be ordained by another Bishop without the permission of the Cardinal Vicar of the City or without undergoing an examination in Rome, so that this canon's censure would apply? It seems that such a censure would not apply due to the words of the canon: "those

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who are ordained while residing in the City by someone other than their own Ordinary." These words signify a continuous residence, and the ordination that takes place during that continuous residence. These words are consistent with the Edict of the Cardinal Vicar of the City, issued by order of Clement VIII on November 24, 1603, which was the first to enact this law, with these words: "To all and each clergy, now and in the future, who are residing in the City and who wish to be promoted to the lower or sacred orders of the priesthood, we decree and command that they henceforth do not seek to be promoted outside of the same City..." These same words are found in another Edict, issued by order of Alexander VII on May 15, 1664. However, some difficulty arises from another Edict of the Cardinal Vicar of the City, issued by order of Benedict XIV on March 20, 1743, in which edict, after renewing the previous ones, these words are read: "To all and each clergy who, for any reason, are residing in this esteemed City for more than four months, now and in the future, we strictly command and order that they henceforth do not seek to be promoted outside of the same City, etc." And in this edict, a penalty of suspension from the use of pontifical vestments for one year is also added to the ordainer. But, having examined the entire text of this edict—

[*Latin ed. p. 665*]

— 49 — after its completion, or even by their own Ordinary afterwards, if they have been rejected in the aforementioned examination; nor do Clerics belonging to any of the six suburban dioceses, if they are ordained outside their own diocese, fall under the jurisdiction of their Ordinary, but are directed to another, except to the Cardinal Vicar of the City; or, without having previously undergone the spiritual exercises for ten days in the urban house of the Sacerdotes called the Mission, those who receive Holy Orders in this manner incur, by their own act, the penalty of suspension from the Orders, according to the will of the Holy See. Bishops, however, who ordain, are subject to the prohibition of the use of Pontificals for one year. The interdict of latae sententiae is reserved. I. » Universities, Colleges, and Chapters, whatever their name may be, incur, by their own act, the interdict, reserved in a special manner to the Roman Pontiff, if they call a general council in opposition to the orders or mandates of the same Roman Pontiff, for the time being, concerning matters pertaining to the universal future council (1). n. » Those who knowingly celebrate or allow to be celebrated divine services in places prohibited by the Ordinary, or by a delegate Judge, or by law; or who admit those who have been expressly excommunicated for divine services, or ecclesiastical sacraments, or ecclesiastical burial, incur the interdict, by their own act, and are excluded from the Church, until they have adequately satisfied the one whose judgment they have disregarded (2). These words, however, seem to have no force other than that of applying to those who remain

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for more than four months in the City, and while this stay continues: for this Edict does not concern the original law with regard to this matter, but only the enforcement of the same law, which had been neglected, with the addition of a new penalty. However, it seems clear that Article III intends to include a provision that suspends the Bishop himself, who ordains his own subordinate, or commits another to ordain, without testimonial letters from the Ordinary of the place where the ordination is to take place, so that the person to be ordained may have remained there for so long that he could have incurred a canonical impediment: for a stay of four months or more in the City is considered sufficient to incur a canonical impediment; therefore, testimonial letters should be requested from the Most Reverend Cardinal Vicar. See Appendices XV and XVI. (X) This interdict, which applies to Communities; (for individual persons are subject to the interdict, reserved in a special manner to the Roman Pontiff, of which Article IV speaks above, page 10), is derived from the Bulla coenae. See Appendix I. C2) This Article is almost verbatim taken from chapter 8 on Privileges in the 6th book, in which Boniface VIII established: « Epi- 4

[*Latin ed. p. 666*]

Finally, We have decreed that any others whom the Most Holy Council of Trent has suspended or prohibited by law, and We, moved by the frequent and clamorous complaints of other Prelates, have decided, by this present Decree, that no secular or regular clergy, regardless of the privileges of exemption or liberty granted to them by the Apostolic See of whatever order, religion, status, or condition, shall knowingly celebrate or have celebrated divine services in cities, camps, villas (unless it is permitted to them by law), or other places prohibited by Ordinaries or delegated judges, or shall admit those publicly excommunicated or prohibited from divine services or ecclesiastical sacraments or ecclesiastical burial. Those who, on the contrary, presume to do so (besides other penalties prescribed by law) shall find their entrance to the church forbidden to them, until they have adequately made amends for such transgression, at the discretion of him whose judgment they have defied.

Although the words of Article [in question] are taken from this Decree of Boniface VIII, it must not be understood that such an Article is to be interpreted in exactly the same way as the Decree of Boniface: for the Decree of Boniface included only those exempted from the authority of the bishop, whether they were regular or secular, so that, namely, the episcopal prohibition would not be ineffective by reason of the exemption, to the detriment of ecclesiastical discipline. And the same Decree left out other penalties, covered by the words: "besides other penalties prescribed by law," which are lacking in our Article. Therefore, those who already incur the penalty of excommunication reserved to the Holy See, of which Article XVII speaks, which We saw above on page 28, do not seem to incur both

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penalties, namely, that of excommunication and that of being prohibited from entering the church, since penalties are not to be multiplied for the same cause, unless it is established that they are to be multiplied. Also, places prohibited by law are to be avoided after the Constitution of Martin V. Such places are not to be considered as such, unless there is a declaration to that effect; therefore, one who violates places that are indeed prohibited by law, but not declared as such by ecclesiastical authority, would not be subject to the prohibition from entering the church.

If you ask what places are prohibited by law, see Appendix IV. Therefore, in this Article, the words "publicly excommunicated" refer to those excommunicated by Bishops or other Ordinaries who have the jurisdiction and power to excommunicate or to declare someone excommunicated in the external forum: and likewise, Article II is parallel to this part with the aforementioned Article XVII, in which clerics who knowingly and willingly communicate in divine services with persons specifically excommunicated by the Roman Pontiff and who receive such persons in their offices are subject to the excommunication reserved to the Roman Pontiff: these words, if compared with the words of this Article II, show that there is a difference in the words: "clerics willingly communicating," which are lacking in Article II. Therefore, I ask whether this difference in words makes a different effect.

I believe that it does not make a different effect: the reason is that it is not a question of different Constitutions issued at different times and for different reasons, but of one and the same Constitution, which, as far as possible, is to be understood harmoniously: therefore, since both Articles are found in the same Constitution and for the same reason, namely, that clerics should not communicate in divine services with those who have been declared excommunicated, the Articles are to be understood in the same sense: all the more so since a real difference already exists in the difference in the penalty. Therefore, all clerics, whether secular or regular, who communicate in divine services with someone specifically excommunicated by the Roman Pontiff incur the penalty of excommunication reserved to him; but those who willingly communicate in divine services with someone excommunicated by other Ordinaries will be prohibited from entering the church.

Since the Articles are parallel, they are to be declared and, if necessary, supplemented with respect to each other.

Note also the difference between Article I, which you have on page 32, in which those who order or compel notorious or specifically named heretics to be given ecclesiastical burial are subject to excommunication, regardless of whether they are excommunicated or not.

[*Latin ed. p. 667*]

51. We will and declare that those who violate these canons are subject to suspension or interdict. Here, we briefly present the suspensions and

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interdicts promulgated by the Council of Trent, so that the Readers may have these canonical penalties before their eyes. Those who, in various ways, violate the canons concerning holy orders are subject to suspension or interdict. Session 23, chapter 8, concerning the following: "Let each one be ordained by his own Bishop. But if anyone requests to be promoted by another, this shall not be permitted to him, under any pretext, even with the authority of any general or special rescript or privilege, unless his probity and conduct are commended by the testimony of his own Ordinary." If this is not done, the ordaining priest shall be suspended from conferring orders for one year, and the one ordained shall be suspended from the exercise of the orders received, for as long as it seems expedient to his own Ordinary (1). Session 23, chapter 14, concerning the following: "If someone is promoted without due order, unless he has a minister, the Bishop may grant a dispensation for a legitimate reason (2)." The term "excommunicated" or "interdicted" refers to those who are born excommunicated or interdicted, and between this Article II, which we are discussing, and the words: "admitting those explicitly excommunicated to ecclesiastical burial," there is a distinction. For some are those who command and compel, while others are those who knowingly admit. By the term "admitters," we understand those who could not admit; those who can admit are the parish priests, rectors of churches or cemeteries, or others who are better able to judge in each case. The penalty of the interdict imposed on those who admit explicitly excommunicated persons is not applied to those who admit notorious heretics or those explicitly interdicted. However, the ecclesiastical burial remains prohibited for the latter, according to the sacred canons, and they cannot be admitted, although those who admit them are no longer subject to punishment. (1) Regarding this Tridentine penalty, see what I noted above in Article III, page 43. (2) The Tridentine Council did not expressly declare whether someone who was ordained without due order was irregular or suspended. If someone ordained without due order was irregular, this section would not be relevant in the present review; for irregularity is not a penalty. But since custom has determined, with the stipulation of the very Tridentine Decree, that an ordination without due order is, by its own right, suspended, therefore this must be included among the Tridentine penalties. The ancient authors were very divided on this question: some believed that those who receive orders without due order, that is, those who receive a higher order, omitting the lower one, are irregular with respect to all orders; others believed that they are neither irregular nor suspended, but should be suspended, meanwhile being impeded, so that they cannot lawfully minister in the orders received without due order until they receive the omitted one; others finally believed that they are not irregular, but are suspended by their own right from the exercise of the order so improperly received, and cannot be further promoted unless a dispensation is granted. This third opinion prevailed,

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and this is the law that has been followed up to now. Cf. Thesaurum de poenis eccles., verb "Ordo," chapter 13. Examining the sacred canons, it seems that an ordination made without due order was considered as an ordination made contrary to the usual rule, which carried no penalty, as can be seen from canon 14 (also 11) of the Sardican Council, in which the Fathers there affirmed.

[*Latin ed. p. 668*]

—M— Sess. 7 c. 10 de Ref. It is not permitted, when the Chapter is vacant, to grant, within one year from the day of the vacancy, permission to ordain, or to issue dismissal letters, or, as some call them, "reverendas," either by the common law, or by the force of any privilege or custom, to anyone who has not been, or is not to be, bound by the reception of an ecclesiastical benefice. If this is done, the Chapter, in contravention of canon law, shall be subject to interdict, and those who are ordained in this way, if they have been raised to the lower orders, shall have no clerical privilege, especially considering the opinion of Bishop Osius, who says: "And I believe it necessary that you examine with all circumspection and diligence, so that if anyone appears worthy of the episcopate by reason of his wealth, or his scholarship, or his public office, he should not be ordained before he has completed the ministry of Lector, Deacon, and Presbyter, so that, having been judged worthy through each of these degrees, he may gradually ascend to the summit of the episcopate." The episcopate is said, according to antiquity, to be the summit, the fullness, the apex of the priesthood, not as a thin apex that completes the priesthood, but as a fullness, a priesthood that already contains all the other things through which one ascends to its fullness. For, according to the concept that can be gleaned from ancient documents, the order of the episcopate is, in a certain way, the complete base of a pyramid, and not the apex of a pyramid; so that the entire sacrament of the order seems to be represented by a pyramid turned upside down, so that the vertex faces the earth, and the base faces the heavens, which would be the fullness of the priesthood through the episcopate. The impediment that the ordination made by a "leap" during the time of Alexander II carried with it can be gleaned from the canon "Solicitudo," which is read in the Decree of Gratian, dist. 52, in which Alexander II wrote thus: "The solicitude of your affection dictates that we should consider whether the person is fit to perform the office of Deacon and Presbyter; since, through negligence rather than pride, it is known that he has ascended to this position by skipping the order of Subdeacon. Therefore, consulting your charity, we command you to forbid him from the priestly office until he properly receives the ministry of Subdeacon during the next four periods of fasting, and then to allow him to return to higher offices." This is consistent with the single heading, "On a Cleric Ordained by a Leap," which I refer to in its original integrity, in

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which Innocent III responded thus: "Your letters contained that (as you had learned from some accounts) a certain Presbyter had been promoted to the order of Priesthood, having omitted the order of Deacon. He himself also confessed to you in secret that he did not know for certain if this was the case, but that, because of what good men asserted, among whom he had been, he believed their assertion, because, at the time when he received the lower orders, he had been enrolled within the years of discretion. You, therefore, sending him to the Apostolic See, humbly supplicated us that we would deign to act mercifully with him. We, therefore, sympathizing with his misery, command your fraternity through the Apostolic See, that you impose on him a fitting penance for such negligence; after which (which is not repeated, because it is not understood to have been done), you should endeavor to ordain him as a Deacon, and thus allow him to minister to others with mercy in the order of priest." From these things, it appears to me that the opinion that is more in conformity with the ancient law is that an ordination made by a leap is irregular; but after the Council of Trent, because of the words "if they have not ministered... the Bishop may grant dispensation," it seems to have been declared that an ordination made by a leap is not irregular, but is suspended by its very nature, so that if he ministers, he becomes irregular, and therefore requires an Apostolic dispensation. Since this censure of suspension has not only been indirectly introduced by the Council of Trent, but rather declared, and also given to the Bishops the power to absolve it, it remains in force, according to what I will write in Appendix XIV.

[*Latin ed. p. 669*]

— 53 — to rejoice in criminals. However, concerning those who are subject to the jurisdiction of the Order, they are, by law, suspended from receiving assignments at the discretion of the future Prelate (1). Session 2, 3, chapter 10, concerning reforms. It is not permitted for Abbots and others, even if exempt, to confer Tonsure or lower Orders upon anyone within the boundaries of a diocese, even if they claim to be of no diocese or exempt, who is not subject to a regular canon; nor may Abbots and others who are exempt, or any colleges or chapters, even of cathedral churches, grant dismissal letters to secular clergy, so that they may be ordained by others. But all of these ordinations, with all due observance of what is contained in the decrees of this Holy Synod, pertain to the Bishops, within whose diocesan boundaries they exist; notwithstanding any privileges, prescriptions, or customs, even those of long standing. Furthermore, a penalty is imposed on those who, contrary to the decree of this Holy Synod under Pope Paul III (2), obtain dismissal letters from the episcopal chapter while the see is vacant. The Council of Trent in this chapter cited the Constitution of Boniface VIII, which is found in chapter "Concerning the Times of Ordination," section 6, where the following is stated: "But when a Bishop is acting

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in a distant place, his general vicar in spiritual matters, or the chapter, or whoever is then responsible for the administration of spiritual affairs, may grant permission to ordain." This common provision was limited in such a way that the chapter, when the see is vacant, cannot grant dismissal letters within the first year from the day of the vacancy, except to those who, having obtained a benefice, are bound to receive orders, or to those who are compelled to receive the same orders by reason of receiving a benefice. However, the Council of Trent left the faculty to grant dismissal letters after the first year from the day of the vacancy. The reason for this limitation is that no greater authority should be granted to the chapter or the capitular vicar than that which is deemed necessary for the administration of the diocese when the see is vacant; but it is not necessary that new clerics be ordained within the first year of the vacancy; but after the first year, if the see is still vacant, the necessity of granting the faculty to receive orders begins. The penalty of interdict is imposed on those who come before the chapter, because, according to the canons, this penalty is usually imposed on communities, as we also saw in Article I, page 49, concerning colleges that appeal to a future council, and conversely, in Article IV, page 10, where the penalty of excommunication is imposed on those who appeal to a council. However, today, since the chapter, when the episcopal see is vacant, cannot reserve a portion of authority to itself in the election of the capitular vicar, and all the authority necessary for the administration of the diocese devolves upon the capitular vicar, only he will be subject to the interdict if he acts contrary to the decree of Trent. (2) This decree is that of session 7, chapter 10, which I have just quoted: from which it is clear what penalty is imposed on those who obtain dismissal letters within the first year of the vacancy from the chapter or the capitular vicar; that is, that they shall not enjoy the privilege of the clergy in minor orders; but they shall be suspended from receiving assignments at the discretion of their own Bishop. But furthermore, those who grant dismissal letters contrary to the form of this chapter 10 are, by law, suspended from office and benefice for a year. To this must be added that the ordainer also incurs suspension for a year, as in Article III, page 42, and in the account of chapter 8 of the Council of Trent, session 23, when he ordained a subject of another. In this chapter 10, the discussion is, as it appears, about colleges or chapters, when the see is not vacant, which, by some title, whether privilege, custom, or prescription, have this right to grant.

[*Latin ed. p. 670*]

— 54 — Those who obtain dispensations [from priestly obligations] are to be granted them, and it is mandated that this be extended to those who obtain such dispensations not from the Chapter, but from others within the Bishop's jurisdiction who are succeeding the Chapter when the Chapter's seat is vacant. However, those who grant dispensations contrary to the

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decree from the Office and Benefice are, by law, suspended for a year, as stated in Session V, canon 6, chapter 5 concerning Reforms: "No Bishop shall be permitted, under the pretext of any privilege, to exercise pontifical functions in another diocese, unless with the express permission of the Ordinary of that place, and only with respect to those who are subject to that Ordinary. If otherwise, the Bishop shall, by law, be suspended from the exercise of pontifical functions, and those ordained by him shall be suspended from the execution of the orders they have received." Session XIV, chapter 2, concerning Reforms: "No Bishop, whether titular or not, even if residing in no diocese, exempt or otherwise, or in any monastery of any order, or if he delays [his duties], shall, by virtue of any privilege granted to him for the promotion of those who come to him, be able to promote or ordain anyone, even under the pretext of continued familiarity and commensality, to any of the sacred or minor orders, or to the first tonsure, without the express consent of his own Prelate or without dispensations. He who, acting against this, exercises pontifical functions for a year, and thus promotes someone, shall, in such a manner, be suspended by law from the execution of the orders thus received, until his Prelate deems it otherwise (1)." Those who, through vows, illegitimately bestow blessings in the contracting of marriage are suspended. Session 24, canon 1, concerning Reforms. "The same holy Synod exhorts that spouses, before receiving the sacerdotal blessing in the temple, do not cohabit in the same house, and it decrees that the blessing be given by their own parish priest, and by no one else, unless by the same parish priest or by the Ordinary who has granted him dispensations; nor by Abbots or other Prelates, however exempt, concerning whom Benedict XIV wrote the following in his work on Diocesan Synods, 1.2, chapter 9, number 9: 'For since the Council of Trent granted Abbots, in any way exempt, the faculty only of conferring the first tonsure and the minor orders upon their regular subjects, and since secular Abbots, however much they may enjoy exemption, do not preside over the regular clergy, it necessarily follows that they cannot promote anyone, although subject to their jurisdiction, to the first tonsure or the minor orders, unless they have obtained this power from the Apostolic See after the Council of Trent.' On this point of law, the cause is explained in Latin periodicals, *Acta Upa.* 336 and following, discussed in the Sacred Congregation of Bishops and Regular Canons. In order for a Bishop, solely as a titular, to legitimately ordain someone, the express consent or dispensations of the Ordinary to whom the one being ordained is subject are required, and, furthermore, the express permission of the Ordinary of the place in which he wishes to ordain is required; if this second permission is lacking, then both the titular Bishop who ordains, and the one ordained, would fall under the penalty of canon 5 of Session 6 as mentioned above:

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for he would be exercising pontifical functions in a foreign diocese.

[*Latin ed. p. 671*]

55. It may be permitted to another priest to grant the aforementioned blessing, regardless of any custom, even one long forgotten, which is more properly termed a corruption, or by any privilege to the contrary. However, if any parish priest or other priest, whether regular or secular, even if he claims that it is permitted to him by a privilege or an ancient custom, should presume to join or bless the betrothed of another parish without the permission of their parish priest, he shall remain suspended by law for as long as he is not absolved by the Ordinary of that parish, who should have presided at the marriage or from whom the blessing was to be received (1).

Bishops are forbidden from failing to report to the proper authorities bishops who are illegally absent. Session 6, chapter 1, concerning Reforms: "Moreover, if the obstinacy [of an absent bishop] increases (if the bishop is absent for more than six months), he shall be subjected to a more severe ecclesiastical censure, and the Metropolitan shall be obliged, under penalty of being denied entrance to the church, to report the absent suffragan bishop to the Metropolitan, and the absent Metropolitan to the senior resident suffragan bishop, within three months, by letter or messenger, to the Roman Pontiff." Session 23, chapter 14, concerning Reforms: "Likewise, bishops, if they do not abstain from such a crime [as concubinage], and if, after being admonished by the provincial synod, they do not amend their ways, they themselves shall be suspended by this very fact."

(1) Before the Council of Trent, there was a penalty of excommunication imposed on religious men who presumed to celebrate marriages without the special permission of the parish priest. This was established in the Clementine Decretal on Privileges, as I have indicated in Article XIV, page 27. This censure was mitigated by the Council of Trent and converted into the suspension mentioned above; however, this suspension extends to all priests, whether regular or secular, who have dared to join or bless marriages without the permission of the parish priest of the betrothed, or of the bishop.

It may be asked whether, in places where the Decree of Trent has not been published, the same censure applies. The answer is: it does not seem to apply; for the Council of Trent specifically decrees that such a Decree shall begin to have force in each parish thirty days after the first publication of the same in that parish.

By the words "such a Decree," the entire Decree is meant. Therefore, where this Decree has not been published, the censure of suspension mentioned in the Decree of Trent is not to be considered applicable, unless perhaps this penalty has already been in force from some other source. Indeed, today, the penalty of excommunication imposed on religious men by the aforementioned Clementine Decretal is no longer in force, since

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no mention is made of it in the Apostolic Constitution. For in the aforementioned Article XIV, in which the Clementine Decretal was partially amended, no mention is made of religious men who bless marriages without the permission of the parish priest.

I said "unless perhaps from some other source"; for it can easily be in force by custom, even if the Decree has not been published.

[*Latin ed. p. 672*]

— 56 — Thus far concerning the censures. Now, regarding the suspension, which, along with excommunications, is followed by the Interdict, and which is established by the Holy See, we proceed as follows.

It is our will, and we declare, that all those censures or excommunications, or interdicts, whether issued by Us or by Our predecessors, or established by sacred canons, which We have enumerated, and which have remained in force up to this point, or which are issued for the election of the Pope, or for the internal governance of any orders or regular institutions, or of any colleges, congregations, associations, or places of any kind whatsoever, We desire and declare that all of these remain firm and in full force (1).

Furthermore, We decree that, in no way, by any grants or privileges that may be conceded by the Apostolic See to anyone, should the power of absolving from, or imposing, any censure whatsoever be understood or interpreted.

(1) Let it be understood that in this paragraph, it is not declared that other censures, issued by the Roman Pontiffs or by the sacred canons, in particular institutions or in particular places of any kind, are abrogated; but it is one thing to say that they are not abrogated and remain in force; it is another thing to say that they have been innovated. For innovation adds new force if, perhaps, the censure had fallen into disuse, which would be revived by the innovation; but when it is said that something is not abrogated by a certain Constitution, it is understood to remain in the state in which it is found, neither the Constitution deleting it nor innovating it. This is sufficiently indicated in the very paragraph by the words: "and which have remained in force up to this point." Therefore, such particular censures, if perhaps they had fallen into disuse or had ceased for some reason in a particular institution or pious place, are by no means to be considered as innovated by a Constitution of the Apostolic See.

Here, a shadow might arise in the mind, saying, if the Constitution of the Apostolic See deals only with universal censures, leaving the others in the force in which they are maintained, why in Article XV, page 27, does it mention those who remove relics from the Catacombs of the City of Rome without legitimate permission, and impose a censure upon them? Is not this a censure imposed for a particular reason related to the place,

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just as, for example, a censure would be imposed for the preservation of a library, so that books are not removed? Also, why in Article VII, page 48, does it impose censures on foreigners residing in Rome, so that they are not ordained by anyone other than the Cardinal Vicar or without his permission? Is not this a censure imposed for a particular reason related to the place where foreigners reside?

Answer: This shadow is dispelled if you consider that such censures are not issued by private requests for the protection of places, as happens in the censures issued for a library, so that books are not removed, or in similar cases; but by universal Constitutions of the Roman Pontiff, for the public and universal good of the Church, and in this sense they can already be considered universal; furthermore, we are dealing with places that, in some respect, can be said to be universal, both because the City is the principal of the Catholic world to which no faithful person is a stranger, and therefore it is the homeland of all Christians; and also because of the frequent influx of visitors to these catacombs, the oldest treasures of our religion; and also because of the same influx of young people from all parts of the world to learn sacred sciences in Rome. These reasons make it so that the aforementioned censures are more justly considered among the universal ones, rather than among the particular ones.

[*Latin ed. p. 673*]

— 57 — to the Holy See, unless a formal and explicit mention of them has been made: but all those privileges or faculties, whether granted by Our Predecessors, or even by Ourselves, to any Congregation, Order, Society, or Institute, even of any kind of regular observance, even if endowed with a special title, and worthy of special mention, which have been granted at any time up to now, We wish to revoke, suppress, and abolish all of them, and We do indeed revoke, suppress, and abolish them, without any impediment or obstacle from any privileges whatsoever, even special ones, whether included or not in the body of the law, or in Apostolic Constitutions, or in any Apostolic confirmation, or in any memorable custom, or in any other form or tenor, and with any derogations, and other more efficacious and unusual clauses, to all of which, as far as necessary, We intend to derogate and do derogate (1). "Nevertheless, We wish to maintain the faculty granted to the Bishops by the Council of Trent, Session XXIV, chapter VI, concerning reforms, in all censures reserved to the Holy See by this Our Constitution, except those which We have expressly declared to be reserved in a special manner to the same Holy See (2)." We decree that these Letters, and all and each of the things contained in them, and all and each of the things made in them, which are changes, derogations, ratifications, and confirmations, respectively, from previous Constitutions of Our Predecessors, and also from Our own, or from other sacred Canons whatsoever, even from the General Councils, and from the Council of Trent

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itself, are to be considered and are to be, and shall be, valid and efficacious, and shall obtain their full and complete effect; and thus, and in no other way, in the premises, by any Ordinary Judges, and Delegates, even Auditors of the Palace of the Apostolic See, and by Cardinals of the Holy Roman Church, even Legates from the Holy See, and Apostolic Nuncios, and any others exercising, or about to exercise, any kind of authority and power, with the exception of those to whom, and to each of them, any other exception has been made (1). (See Appendix V. C2) Thus is the Decree of the Council of Trent, chapter 6, session 2nd, concerning reforms: "It is permitted to Bishops to grant dispensations in all irregularities and suspensions, arising from hidden fault, except those arising from voluntary homicide, and except those brought before a contentious forum, and in all cases of hidden fault, even those reserved to the Apostolic See, to freely absolve, in their own forum of conscience, any delinquents subject to them in their diocese, either by themselves or by a vicarious specially appointed to them, imposing salutary penance. Also, in the crime of heresy, it is permitted to them only, and not to their vicars, in the same forum of conscience." (See Appendix V.)

[*Latin ed. p. 674*]

— 58 — with the faculty and authority to judge and interpret, ought to be judged and defined; and whatever may be attempted concerning these matters by anyone, with any authority whatsoever, even under the pretext of any privilege, or custom introduced or to be introduced, which we declare to be an abuse, knowingly or unknowingly, is null and void. "Notwithstanding the foregoing, and all other ordinances, constitutions, privileges, even those especially and individually worthy of mention, and also any customs whatsoever, even those of long standing, and all other contrary things whatsoever. " Therefore, it is entirely forbidden to any human being to infringe upon this page of Our constitution, ordinance, limitation, suppression, derogation, or will, or to dare to oppose it with reckless audacity. If anyone should presume to attempt this, let them know that they will incur the indignation of Almighty God and of the Blessed Apostles Peter and Paul. " Given in Rome, at St. Peter's, in the year of the Incarnation of Our Lord, One Thousand Eight Hundred and Sixty-Nine, on the fourth day before the Kalends of October, in the twentieth year of Our pontificate. " M. CARD. MATTEI, Pro-Datarius, — N. CARD. PARACCIANI CLARELLI, Visa de Curia, Dominic Bruti, Locof Plumbi, I. Cugnoni.

[*Latin ed. p. 675*]

APPENDIX I. HISTORICAL-LEGAL NOTE ON THE DECREES OF THE COUNCIL OF TRENT, WHICH RELATE TO APOSTATES FROM THE FAITH, HERETICS, AND SCHISMATICS. For the correct understanding of these matters, and for properly assessing their value, it is most helpful to

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examine the tradition of these canons; that is, to investigate the historical reasons from which these canons originated, how they have been increased or modified over time, and how they have been commonly understood. Such an inquiry, although not always easy, makes it possible to better understand the value of these canons, and thus to apply them more easily, and to reduce the risk of error. This is a certain rule in the interpretation of laws, when it is a question of fully understanding a canon or of applying it, and it is one that is used by tribunals in cases that arise, either concerning the very manner of understanding the canon, or in applying the canon to a particular case. Nevertheless, it must be noted that such an inquiry is usually made when a certain question can be said, in some way, to be new; that is, when there are no similar questions that have already been definitively settled. For if similar questions have already been settled, then it is not necessary to investigate the tradition of the canon, but rather the already settled questions must be taken as norms for judging other cases. For the reason is that the established usage has already determined the meaning of the canon. Indeed, questions that are more numerous and have been judged according to the same standard are so valuable that, in such cases, even if the original meaning of the canon seems to be contrary, the original meaning must be abandoned, and the more recent resolutions, which have determined the meaning of the law, must be followed as the norm. I could illustrate this with many examples, some of which occur in the explanation of this Constitution. Nor are there lacking examples in which a certain law is alleged, and if one were to investigate its origin and its original meaning, it would not help to show what the alleged law seeks to show; nevertheless, such laws are not uselessly alleged; for they indicate a certain traditional principle that has prevailed, although it is not contained in the alleged law itself. For Church law, in its entirety and in its amplitude, is more traditional than written. The Constitution of which we are speaking is new, but it contains many ancient things; and in the very beginning of the Constitution, an interpretation of the canon is given by these words:

[*Latin ed. p. 676*]

60 APPENDIX I. •words: "declaring that these [censures] must derive their force not only from the authority of the ancient canons, insofar as they are in agreement with this our Constitution, but also, as if they had been first issued by this very Constitution, they must be understood in such a way." This canon, expressing the meaning of the interpretation accurately, signifies: The censures, which are not first laid down in this Constitution, are to be understood according to the ancient tradition of those same censures, but in such a way that they remain tempered, as they are tempered by this Constitution. If the meaning of the ancient canons does not seem to agree with the meaning and context of this Constitution, the meaning of the

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Constitution must be preferred, as if those canons had been issued by it. But the preceding articles of this Constitution, which we are discussing, which inflict excommunication to restrain the audacity of non-Christians who were hostile to Christians, and also to punish Christian men who, not fearing ecclesiastical immunity, harassed ecclesiastical persons, or prevented the faithful from freely communicating with the Holy See and the Roman Pontiff, perhaps the original bulls of this kind were more concerned with restraining those who were in any way hostile to the Church of God, rather than with heretics, because at that time there was less need to restrain error concerning the faith, and for other reasons this matter was handled in this way; therefore, in their original origin, such bulls seem to be very concerned with protecting the immunity of the Church and the safety of Christians, as can be seen in the Constitution of Urban V, which begins "Apostolatus officium" and was issued on October 12, 1363. It is useful to see how, after the tenth article [excepting Article X], the most famous bull, which Roman Pontiffs have been accustomed to promulgate according to the circumstances of the time, was issued according to the circumstances of the Last Supper. It is clear that bulls of this kind concerning heretics and schismatics were gradually expanded by the most widespread custom of publication, until the last one, which has been used by Roman Pontiffs for a long time, was intended to establish a certain state of perpetual law, although it was not further promulgated. The Bull of the Last Supper, issued by Julius II on March 1, 1511, in the Roman Bullarium (1), begins with these words: "We, using a new edition of the Bullarium of [Bollani], which is most carefully published in [Turin]. It would be desirable that new editions of the same Bullarium should, insofar as possible, contain..."

[*Latin ed. p. 677*]

APPENDIX I: Excommunicates heretics: "Our predecessors, the Roman Pontiffs, have been accustomed to employ the arms of justice through the ministry of the Apostolate, in the present celebration, in order to maintain the purity of the Christian religion and its very unity, which consists principally in the conjunction of members to one head, namely Christ, and His Vicar, and to preserve the holy society of the faithful from offense." §. 1. "Therefore, following this ancient and solemn custom, We excommunicate and anathematize, by the authority of Almighty God, the Father, and the Son, and the Holy Spirit, as well as by Our own authority, all heretics, Cathars, Patarenes, the Poor of Lugdunum, Arnaldists, Speronists, Passagens, Vicleffists or Ussites, the Fralicelli of Opinion, and whatever other heretics, by whatever name they may be called, and all their supporters and defenders."

"In the regions of Toulouse and elsewhere, the perversity of heretics, whom some call Gazarians, others Patarenes, and others by other names, has increased; therefore, We decree that they and their defenders and those

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who receive them are subject to an anathema, and We forbid, under anathema, that anyone presume to harbor or support them in their house or on their land, or to engage in dealings with them."

"But since such heretical sects, called by various names, are growing daily and are connected by some bond, Innocent III, in the Council of Lateran IV, held in the year 1215, decreed: 'We excommunicate and anathematize every heresy that exalts itself against this holy orthodoxy and the Catholic faith, which We have explained above; We condemn as heretics, whatever names they may be called, although they may have different appearances, but their tails are joined together, because they agree in vanity.' This formula, found in the Bull of the Holy Supper, which includes all existing heretical sects, furthermore, We decree that those who receive, defend, and support heretics are to be subjected to excommunication..."

"The Council of Lateran III, under Pope Alexander III, held in the year 1179, used the same formula, indicating the constitutions of the Roman Pontiffs, which either directly or indirectly concern the Church, rejecting those constitutions that pertain to particular institutions or places."

"The Taurinensis edition of the Roman Bullarium is not only the most accurate, but also very convenient because of the indications of similar constitutions, which the editors do not fail to provide, when the opportunity arises."

[*Latin ed. p. 678*]

61 APPENDIX I, "We excommunicate and anathematize" all heretics, Cathari, Patarenes, Pauperes of Lugdunum, Passaginians, Iosephites, Arnoldists, Speronists, and all others who are considered by whatever names, and who [have] diverse practices, etc., as mentioned above: this formula was also used by some subsequent Roman Pontiffs in their Constitutions against heretics, as, for example, Nicholas III in the Constitution *Noverit*, issued on May 3, 1280. Returning, therefore, to the Bull *Coenae* of Julius II, no mention is made therein either of the books of heretics, or of apostasy from the faith, or of those who believe in heretics, or of schismatics, or of those who disobey the Roman Pontiff, or of those who appeal to a general Council. In the Bull *Coenae* of Paul III, issued on April 13, 1536, the same introduction is found, as in the Bull *Coenae* of Julius II, and the same heretics are condemned with the same formula, but in such a way that after the words: "the so-called Fraticelli of the Opinion," the following immediately follows: "and also by the blessed memory of Leo X, our predecessor, following those who in past years condemned the impious and abominable heresy of Martin Luther, and those who, in any way, favor Martin himself, or any other heretics whatsoever, by whatever name they may be called, and all their supporters and those who receive [them], and those who read, or keep in their houses, or print, or in any way defend, for any reason, publicly or secretly, with any ingenuity or

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pretense, and generally all defenders of the same." In this Bull, the books of the Lutheran sect are also condemned. It is worthy of note the very extensive scope of the censure, which indicates a special reason for such a constitution: for it seems that the Pontiff intended, by this means, to cut off the enormous propagation of the heresy; just as Alexander III, and even more so Innocent III, severely punished by expelling heretics from the lands and houses in which they resided, and also those who favored them in any way. Such extensive clauses of the law, which display the utmost rigor, must be understood with all rigor, and entrusted to execution, when it is a question of suppressing a grave danger that threatens: but after the danger of damage has ceased, or the law has become ineffective in suppressing the damage, they must be understood more leniently, and the necessity arises that the legislator should revoke the law, or mitigate or clarify it, if there remains a doubt as to whether the law is to be understood in the rigor in which it is expressed, or not. But if it clearly appears that the law has become useless, or that the entire purpose of the law has ceased, then there is no need for clarification. This was the case, for example, with the censures imposed in the Bull *Coenae*.

[*Latin ed. p. 679*]

BOOK I, SECTION 63. In this Bull, a greater consideration was given to pirates, sea robbers, and land thieves who belonged to the sect of heretics, as well as to teachers and tax collectors who, by their words and actions, supported and aided them, believing their doctrines. From these words, a certain distinction can be inferred between heretics and Turks, and others of that kind. Many ecclesiastical laws exist concerning this matter: for those who stubbornly adhere to this kind of heresy are themselves heretics. Severe penalties are inflicted, especially in matters concerning benefits, whether due to simony ("for some are teachers and leaders in the heretical sect"), or due to ambition, or for some disgraceful gain, or for other causes, which give a name to the heresy and which, at the time when the law was enacted, were prevalent: but when these causes cease, those penalties, either of themselves or by some other means, will cease entirely: for the law has reached its end. In the Bull of the Holy Supper of Gregory XIII, issued on April 4, 1583, after the beginning, and with the same anathema formula applied, the following immediately follows: "Those who belong to the Wycliffites, Lutherans, Zwinglians, Calvinists, Huguenots, Anabaptists, Arians, and all other heretics, whatever name they may be called by, and whatever sect they may belong to, and those who believe in them, as well as those who receive them, and generally all defenders or patrons of them, or those who, by any means, help them to escape the penalties justly inflicted upon heretics, as is said in the aforementioned Bull, or who at least provide support for the propagation of heresy, shall be excommunicated." From this, it appears that those who

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believe in the words of heretics, even if they do not formally belong to the heretical sect, but who, for any reason, publicly or secretly, in any way, defend them, are also considered heretics. This distinction is made between those who are considered heretics, whatever name they may be called by, who establish some sect, and those who believe in them. Mention of such believers occurs in the famous Decree of Innocent III at the Council of Lateran.

[*Latin ed. p. 680*]

APPENDIX 1. Concerning the Fourth Nicaean Council, as mentioned above: And those who hold such beliefs were likewise included in the second class, along with those who receive, defend, and favor heretics. When a doubt arose as to whether those who hold such beliefs should be judged as heretics, Gregory IX resolved the question in the aforementioned passage with these words: "We judge those 'who believe' in their errors, just as we judge 'heretics'." And Nicholas III repeated this in the aforementioned Constitution, with the same words: "We judge those 'who believe' in their errors, just as we judge 'heretics'. Furthermore, 'we decree that those who receive, defend, and favor heretics' are subject to the sentence of excommunication." Although this declaration seems to contradict the aforementioned distinction, nevertheless, upon examining the subsequent formulas found in the Bulla Coenae, it becomes clear that the distinction was not entirely abolished; thus, while those who hold such beliefs are judged as heretics and are subject to anathema, they are not nevertheless subject to all the canonical penalties, which are applied to those who formally belong to a heretical sect. They have always belonged to the second class. Therefore, as I noted in the first article of the Constitution, page 9, those who hold such beliefs may, in their own consideration, be true heretics, but not in the sense that they are placed in the second class; rather, they are placed in that class to the extent that they demonstrate, through the external actions, that they follow heretical errors. In the Bulla Coenae of Gregory XIII, which I am discussing, the same penalty of excommunication is extended to those who read the books of heretics. Upon carefully considering and comparing these words with those found in the Bulla Coenae of Paul III, mentioned above, it immediately becomes apparent that Gregory XIII partially mitigated this censure, and in some respects extended it, "in that he did not condemn all the books of certain heretics indiscriminately, but only those that contained heresy or dealt with religion; nevertheless, he extended the censure to all the books of heretic, not limiting it to the books of the Lutherans, as Paul III had decreed." Gregory XIII, in his Bulla Coenae, had in mind the Index of prohibited books, which had already been confirmed by Pius IV. I will discuss this matter in Appendix III. The same Pope, Gregory XIII, after the aforementioned prohibition of books in his Bulla Coenae, added: "And we also anathematize schismatics, and those who pertina-

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ciously separate themselves or withdraw from the obedience of our Holy See and of the Roman Pontiff who is presently in existence." This sentence, in a somewhat similar form, had previously been pronounced by Paul II and Sixtus IV, who reserved this matter to themselves, as can be read in the Extravagant of each.

[*Latin ed. p. 681*]

APPENDIX I. Although Dominic, in his work *On Penance and Remission*, writes: "Conspiracy against the person or the authority of the Roman Pontiff, or any act of disobedience or rebellion against the same Pontiff or the Apostolic See (or against the same Pontiff or the Apostolic See)." I have said that this was, in a certain way, prefigured; for both Paul II and Sixtus IV speak more of obedience to the temporal authority of the Roman Pontiff, although they clearly do not exclude disobedience to the supreme ecclesiastical authority of the same Pontiff: conversely, Gregory XIII speaks of a stubborn withdrawal and a stubborn refusal to submit to the supreme authority of the Roman Pontiff, to the extent that He is the head of the entire Church. This is confirmed by the following paragraph of the same Bull, which continues as follows: "§ 2. Furthermore, we excommunicate and anathematize all and each, of whatever status, rank, or condition they may be, and we forbid universities, colleges, and chapters, whatever their name may be, from obeying our ordinances, sentences, or mandates, and those of the Roman Pontiffs existing at the time, who call for a universal future Council, nor also those who, with their help or favor, have called for it." It might be doubted whether he who stubbornly refuses obedience to the Roman Pontiff under the pretext of calling for a universal future Council would be included under this censure, as if appealing to a higher authority; but as this doubt is resolved, it also shows that calling for a future universal Council, in defiance of the ordinances, sentences, or mandates of the Roman Pontiff, is one example of that kind which is included under this censure. Another, more recent Bull, inserted in the Roman Bullarium, was issued by Paul V on April 8, 1610. This has a more elaborate introduction, which it would be useless to reproduce here: it is as follows. "The vigilance and solicitude of the Roman Pontiff, as He constantly strives in the fulfillment of His office to promote the peace and tranquility of the entire Christian Republic, shines forth most brightly in maintaining and preserving the unity and integrity of the Catholic faith, without which it is impossible to please God; that the faithful of Christ may not be like little children wavering, nor be swayed by every word of doctrine according to the deceit of men, but that all may come together in the unity of faith and the knowledge of the Son of God, into a perfect man, and that they may not harm each other in the society and communion of this life, nor give offense to one another, but rather, being joined together in the bond of charity, as members of one body under Christ the Head, and His Vicar in the Roman

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Pontiff, the blessed successor of Peter, from whom the unity of the entire Church emanates, may increase."

[*Latin ed. p. 682*]

66 APPENDIX I. for edification, and thus, with the help of divine grace, that they may enjoy the peace of this present life, so that they may also partake of future blessedness. For these very reasons, the Roman Pontiffs, our predecessors, on this day, which is the solemn commemoration of the Lord's Supper, have customarily exercised, through the ministry of the supreme apostolate, the spiritual sword of ecclesiastical discipline and the salutary arms of justice, for the glory of God and the salvation of souls. We, therefore, for whom nothing is more desirable than to defend the inviolate integrity of the faith, public peace, and justice, with the help of God, following this ancient and solemn custom, declare: "§ 1. We excommunicate and anathematize, by the authority of Almighty God, etc., all Hussites, Wicklifftes, Lutherans, Zwinglians, Calvinists, Huguenots, Anabaptists, those who deny the Trinity, and all others who have apostatized from the Christian faith, and all those who believe in them, and those who receive, support, and in general, any defenders of them, and their books containing heresy or treating of religion, who, without our authority and the knowledge of the Apostolic See, knowingly read or retain, print, or defend in any way, publicly or secretly, by any means or pretense, and also schismatics, and those who pertinaciously separate themselves from our obedience and from that of the Roman Pontiff who is presently in office." "§ 2. Furthermore, we excommunicate, etc." The following excommunication is directed against those who appeal to a general Council, as in the Bull of Gregory XIII. This Bull of Paul V is entirely the same as the Bull of Gregory XIII, except for the words "and those who have apostatized from the Christian faith," which words are found here, but not in the preceding Bulls, which are accustomed to be read and promulgated on the day of the Lord's Supper. These words appear to have been inserted into the context of the Bull because a certain question had arisen among theologians some time ago, as to whether those who have apostatized from the faith are heretics. This question is discussed by Melchior Canus in *De locis theol.*, book 4, chapter 7, who demonstrates and concludes that, strictly speaking, those who have apostatized from the faith cannot be called heretics, since they do not adhere to their errors by the name of the Christian religion, which they have abandoned, although there is no doubt that those who have apostatized from the faith are to be punished as heretics. Boniface VIII had decreed in chapter 43 *de haereticis* in the sixth canon, with these words: "Against Christians who have passed over or returned to the rite of the Jews (even if such who returned were baptized while they were in error, or out of fear of death, but not absolutely or precisely compelled), proceedings shall be had as against heretics, if they have confessed this, or

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have been convicted by Christians or Jews."

[*Latin ed. p. 683*]

67 APPENDIX I. "Just as proceedings should be taken against those who favor, receive, and defend heretics, so too should proceedings be taken against those who favor, receive, and defend apostates." And concerning this matter, it is fitting to mention the best observation made by Melchior Canus in the aforementioned passage, with these words: "There is no doubt that apostates incur the penalties of heretics. This has been consistently observed from the beginning of the Church, as can be seen from the writings of Cyprian, or especially from his treatises. Many are deceived in this matter, because they believe that all Church laws are to be found in legal volumes, in which are collected the decrees of Ravmond, or Gratian, or anyone else, and many more. Hence, Caietanus, not finding the precept of forty days' fasting in the Decrees of Boniface, which are widely circulated, could scarcely conclude that someone who, having converted, might pass for a Christian, would be subject to ecclesiastical penalties for heresy. This doubt seems to have been resolved by Paul III, at about the same time that Melchior Canus wrote. For that Pope, in the solemn Constitution *Cum ex Apostolatus*, published on February 15, 1559, confirmed and extended all the censures "against" heretics or schismatics, whatever they may be... and also those who, "having deviated from the Catholic faith, either afterwards deny it, or fall into heresy." And the words of this Constitution apply to those who, having deviated from the Catholic faith, are considered to have fallen into apostasy from the Christian faith.

Many are, I believe, unaware that the Church has laws that are not written, but are established by custom. Nor do all the writings of Councils and Popes comprise the entire body of law. Therefore, the penalties for apostates were prescribed by the Church before Boniface VIII. But if anyone should doubt this, the Pope resolved that doubt, defining that apostates should be treated in the same way as heretics. Thus far, Melchior Canus. Nevertheless, one might still doubt whether someone who has deviated from the Catholic faith and the Bull of Union, would be considered an apostate. The promulgation of this Bull ceased under the pontificate of Clement XIV, who, having been elected in 1769, considered, due to the circumstances of that time, that it should not be promulgated, and his successors, the Roman Pontiffs, followed his example. Although its customary promulgation was omitted, nevertheless, those things that pertained to apostates, heraments, and schismatics, and not those that pertained to certain other aspects of ecclesiastical immunity, still had the force of law, through the Apostolic Constitution.

[*Latin ed. p. 684*]

68 APPENDIX II. ON THE NATURE OF EXCOMMUNICATION, ITS

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MODERATION, AND ITS APPLICATION TO THOSE FALLEN AWAY FROM THE FAITH, HERETICS, AND SCHISMATICS. The tradition of ecclesiastical law, as written in c. i v. 5, states: "This matter, from its very origin, greatly benefits the understanding of what is lacking, so that, by understanding the innermost value of ecclesiastical dispositions, such as the Presbyters, as I have arranged for you: " I wrote in Appendix I. Therefore, to inquire into the place where, under the name of Presbyters, the nature of excommunication arises, I will present some historical and legal facts from the early centuries of the Church, which demonstrate in what consists the entire force of this ecclesiastical penalty, which is called excommunication. For under the name of excommunication, there is understood the privation of communion. Therefore, it is necessary to inquire what comes under the name of communion, so that this privation may be more fully understood. When the Church was still in its infancy, the dioceses, or parishes, which are also called by that name, were very little extensive; in each of them there was almost a proper bishop; and this, according to the Apostolic dispositions, as the Apostle Paul wrote to Titus (1). This multitude of bishops, which was necessary in the beginning of the Church, is attested by ancient monuments: and the Roman Pontiffs themselves, when celebrating the sacred ordinations, often ordained almost as many, or even more, bishops than presbyters, as we read in the Breviary lessons: and you still see vestiges of this in the dioceses which are near Rome, of which many, which are now long since destroyed or united with each other, are still small dioceses in comparison with those which are now constituted: and the very Roman diocese does not contain extensive limits. St. Leo the Great, in the 5th century, wrote to the bishops of Mauritania Caesariensis, saying: "By our authority, which, by long-standing custom, has been determined from the Apostolic age, so that the names of the sacred ministers of the Church are established, it may seem paradoxical to some that only the priests of the first order are called by the name of Presbyters. However, it is clear from the sacred Scriptures that the priests of the first order, who are then called by the fixed name of bishops, were also called Presbyters, or Elders, but Seniors; which is easily shown both from the context and from other passages of Scripture, such as from chapter 20, verses 17 and 28 of the Acts, 1 Peter chapter 5, verse 1 and following, 1 and 2 John, chapter 1, verse 7, and elsewhere. It cannot be demonstrated that priests of the second order were ever called bishops in the sacred Scriptures."

[*Latin ed. p. 685*]

APPENDICES: Furthermore, it is easily understood that the practice of establishing bishops even in obscure towns is to be avoided; this prohibition demonstrates how frequently bishops were created. He wrote: "Indeed, with regard to the dignity pertaining to the priesthood, we wish that the statutes of the canons be observed among all, so that bishops are not

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consecrated in every place, nor in every castle, and where there were no bishops before; for where the congregations of the people are smaller, and the gatherings smaller, the care of the presbyters suffices; but episcopal governance is suitable only for larger populations and more numerous cities; lest, as the divinely inspired decrees of the Holy Fathers wished, the priestly dignity be bestowed upon villages and holdings, or upon obscure and solitary municipalities, and the honor, to which greater things are due, be diminished by its very multitude." (Canon IX, II, 69). This is what Saint Anacletus had already written, as it is read in chapter 3, distinction 80, with these words: "Bishops should not be established in castles and small cities, but presbyters should be ordained and appointed by bishops to govern castles and small cities and villages." This discipline prevailed, and for many centuries it did prevail, so that in cities, presbyters were not appointed to govern congregations and hold gatherings, but there was one church or parish of the city, which was presided over by a bishop, while outside the cities, in neighboring areas, there were other parishes, which were presided over by presbyters, who held gatherings of the faithful, similar to the episcopal church, and were entirely dependent on it. These parishes in the towns were also called "ecclesiastical possessions," as is mentioned in canon 6 of the Council of Chalcedon. Perhaps the only example in the Western Church was what Evaristus established in Rome, who, for the sake of the sacred rites, assigned presbyters to the regions of the city, who were later called Cardinals. Marius Lupus of Bergamo, concerning parishes before the year 1000, showed that there were no parishes in cities before the year 1000. I said in the Western Church; for concerning the church of Alexandria, founded by the prince of the Apostles, Mark, Epiphanius, the heresiarch, wrote in Haer. 49, also 69, Arian, number 1, page 727, edition of Cologne, 1682: "As for those who are in the Catholic communion of the church of Alexandria, each one is subject to one archbishop, and each has his own presbyter, who administers the ecclesiastical duties to those who live around those churches, and their gatherings, or congregations, are commonly called 'vici' or 'laurae' by the Alexandrians." Concerning the conformity of discipline between the Roman and Alexandrian churches, there is a remarkable letter from Saint Leo the Great to Dioscorus of Alexandria, which is the 4th in the appendix to the Roman Bullarium, volume 1, edition of Turin. Among other things, Saint Leo rebukes Dioscorus: "For we must think and act in the same way, as it is written, that in all things one heart and one soul may be proved. For when the most blessed Peter received the primacy from the Lord, and the Roman church remained in his institutions, it is wrong to believe that the holy disciple of his, Mark, who first governed the church of Alexandria, established other rules, or formed his decrees according to the traditions of others; for without doubt, from the same source of grace, both the disciples and the teachers were of one spirit, and neither could have taught anything other than what they

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received from the one who ordained them. Therefore, we do not allow it, that while we profess to be one body and one faith, we should differ in some things, and that the institutions of the teacher and the disciple should seem to be different."

[*Latin ed. p. 686*]

APPENDIX u. 70. The passage from the *menaea*, which is also found in chapter 4, "Let your speech be always with grace." Concerning this passage, of which I shall speak in the fifth book, when you assemble the Church of God, as in Appendix XIII, you are like the governor of a great ship, and the Bishop, with all his prudence and discipline, must arrange the clergy according to the order of their ordination, commanding the Deacons, as it were, to prepare all the faithful, just as sailors prepare for navigation, so that the brothers, as in a city assembly, and all the sacred things, with all care and decency, are arranged in one and the same church under the Bishop. And in the beginning, these were arranged in such a way that, indeed, the building was oblong, facing east, with the sacristies on either side facing east, and it was similar to a ship. In the middle was the Bishop's throne (1), and on either side sat the assembly of Presbyters and Deacons, specially adorned, as if they were sailors and those who steer the ship. Their care, on the other hand, is such that the laity sit with great peace and in beautiful order, and the women also sit separately, observing silence. The Lector, from his place, reads (2) books.

To this passage, Emus Pitra adds in his work *Iuris ecclesiae. Graecorum*, vol. 1, page 220: "The librarian of Anastasius made the first Latin translation of the letter of St. Nilus, and I, after him, have published it, in which the following is clearly stated: 'But the episcopal throne, which is in the middle of the Presbyters, suggests the chair of our Lord Jesus Christ.'" *Spec. Solesm.*, vol. 3, page 398. (2) At that time, the duties of the lower clergy were highly esteemed before the assembly of the faithful, as they were perfectly suited to the liturgical order of that time. Indeed, those lower clergy who abandoned the clerical office they had accepted were called apostates in law. In more recent centuries, due to the great expansion of the Catholic Church, the discipline gradually changed, and the duties of these clergy have lost their names, almost to the point of being empty of meaning; and each of these clergy eventually abandoned the clerical office they had accepted. However, their public rights were not greatly diminished, of which the most important are the privileges of Canon and Forum, concerning which many canonists have written much after the Council of Trent. It is worth mentioning an example taken from the letters of St. Cyprian, from which it appears how highly the office of the Lector was held before the assembly of the faithful. Cyprian, in letter 34, writing to the Presbyters and Deacons and the entire people, recounts the great merits that Celerinus and Aurelius had achieved in the most severe

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persecution of the African Church, whom he himself had appointed to the presbyterate of the Church in the rank of Lector. Concerning Celerinus, St. Cyprian wrote among other things: "This man, coming to us, his brothers, with such great dignity from the Lord, and illuminated by the testimony and miracle of himself, who had persecuted him, what else could be more fitting than that he should be placed upon the pulpit, that is, upon the tribunal of the Church?"

[*Latin ed. p. 687*]

71. And the sheep, according to their kind and age, are arranged; and whatever of them is similar is gathered together, just so in the church: the younger ones should stand if there is room, otherwise they should sit; but the elderly should sit in order; and the children should stand with their fathers and mothers. Furthermore, the young women should be separated, and if there is room, they should be placed apart from the women. Those who are married and mothers should also be separated. But the virgins, widows, and elderly women should either stand or sit. The deacon should provide for the places, so that each one entering may find his place, and that no one should sit near the doors. Similarly, the deacon should watch over the people, so that no one whispers, snores, laughs, or makes a disturbance. For in the church, one must stand wisely, soberly, and attentively, with the ears intent on the word of the Lord. Then, all rising together and facing the east, after the readings are finished, one of the Psalms of David should be sung, and the people should repeat the last words. Afterwards, the deacons or a priest should read the Gospel. When the Gospel is read, all the priests, deacons, and the entire people should stand in silence. After this, the priests should exhort the people, each one individually, not all at once; and the bishop, who is like the helmsman of a ship, should also do so. But the doorkeepers should stand at the entrances for the men, guarding them; and the deaconesses should do the same for the women, just as they would count the sailors. For in the tabernacle of testimony and in the temple of God, the same order and arrangement was observed. If anyone is found sitting in the wrong place, he should be corrected by the deacon, who acts in place of the overseer, and should be moved to the proper place. For the church is like a ship. Just as a shepherd leads each flock, I mean goats, to a higher place, and is conspicuous to the entire people for the clarity of his honor, so too, the priest should read the precepts and the Gospel of the Lord, following them faithfully and courageously. Let the confession of the Lord be heard daily in these things, which the Lord has spoken. Let him see if there is a higher rank to which he can aspire in the church. Nothing is more beneficial to brothers than that, when the evangelical reading is heard from his mouth, everyone who hears it should imitate the faith of the reader. Aurelius was to be commended in the reading, for he was joined in the fellowship of divine honors, and was united with all virtues and praises;

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both are equal, and both are similar, in that they are sublime in glory, and yet humble in reverence; and just as they are promoted by divine grace, so too they are subject to their own peace and tranquility, and they give examples of virtue and good manners. However, know that these readers are appointed temporarily, because it was necessary to place the lamp upon the candlestick, so that it might shine on all; and that those with glorious faces should be placed in a higher place, where they can be seen by all the people around them, so that they may provide an incentive for glory. Furthermore, we have designated the honor of the presbyterate, so that the same honors may be given to the priests, and that the portions of the offerings should be divided into equal parts, to be given to those who have spent many years with us, and who, although they may seem to be of lesser age, have attained the dignity of old age.

[*Latin ed. p. 688*]

72 APPENDIX II. "Let them pray to God who ascended into heaven, that He may turn His face towards you, and may His mercy be upon you and upon the heavens above you; let the Lord bless you, remembering that ancient promise, and may He turn His face towards you and grant you the peace of paradise, which the first man, neglecting the commandment of God, persuaded by the counsel of the serpent, was cast out from. Let the Deacons, after the prayer, some minister to the eucharistic offering, presenting the Body of the Lord with reverence, while others watch over the crowds and maintain silence. The Deacon who assists the Priest should say to the people: 'Let no one take against anyone; let no one act hypocritically.' Then let them greet each other, men greeting men, and women greeting women, with a kiss in the Lord (1); and let no one, even by deceit, as Jude did, who kissed the Lord and betrayed Him. After this, let the sacrifice be performed, with the entire people standing and praying silently. When each person has received the offering, let the Deacon say: 'May the Lord Christ and His precious Blood be for you a defense in His kingdom.' Let the women, also, with their heads covered, as befits the order of women, approach. Let the Deacon pray for the one true Church and for the whole world and its parts, for the fruits of the earth, for the priests and princes, for the Pope and the King, and for the peace of all. After these things, let the Priest, having prayed for the people, grant them peace, and bless them, as Moses commanded the priests, that they should bless the people with these words: 'May the Lord bless you and keep you; may the Lord make His face shine upon you, and may He be gracious to you.'"

(1) In this place, Dom Pitra notes, among other things, from Anastasius the Librarian: "The same Anastasius, in some passages from the mystical history of Saint Maximus, provides me with this: through the divine kiss (we understand) is expressed the unity of all with all, and with themselves, and with God, of concord, harmony, and charity." It will be worthwhile to

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mention at least these main parts of the liturgy, which are touched upon in this place, in an order which I can easily call Roman, and almost as it is with Saint Augustine: 1. the reading of the Old Testament; 2. the chanting of psalms; 3. the reading of the New Testament; 4. the sermon of the Bishop and the Priests; 5. the dismissal of the catechumens and the penitents; 6. the prayers or antiphons of the faithful; 7. the offering of bread and wine; 8. silence; 9. the admonition of the Deacons against the unworthy; 10. the kiss of peace; 11. the prayer of the Priest; 12. the greeting and blessing of the Bishop; 13. the consecration; 14. the communion.

[*Latin ed. p. 689*]

APPEND x n. "Having ascertained where the brethren are, and having recognized that they are indeed faithful and wise in the Lord, he shall lead each of them to a suitable place. If a Presbyter comes from a parish, he shall be received by the Presbyters in communion; and if a Deacon, by the Deacons. But if a Bishop comes, he shall sit with the Bishop, and shall be received by him with equal honor. And you shall ask him, O Bishop, to address the people in a discourse of doctrine, for the exhortation and admonition of strangers is most welcome and exceedingly useful; for, as it is said, no prophet is accepted in his own country. You shall also allow him to offer the Eucharist; but if, out of reverence and for the honor reserved to you, he prefers not to offer it, you shall urge him to at least bless the people. And if, while he is speaking, some man should arrive, either honorable and renowned in the world, or a stranger, or a resident of the place, you, O Bishop, while speaking of God, or while listening to him who sings or reads, shall not, through consideration of the person, interrupt the ministry of the word, but shall provide him with a place among the foremost seats, remaining quiet and not interrupting either him or your own discourse, nor the attention of the audience. The brethren shall receive him through the Deacons; and if there is no place, the Deacon who is the youngest shall receive him, acting prudently, and not moving anyone rashly from their place; for it is fitting that each member of the brotherhood should show love, and if he refuses, place him after all, so that the others may give way to the more honorable. But if a poor man, or an unknown man, or a pilgrim, and whether old or young, arrives while the seats are occupied, the Deacon shall also make room for them with all his heart, so that no one may be offended; for it is not the acceptance of persons, but the ministry accepted before God. The Deaconess shall do the same when women, whether poor or rich, arrive. When you are teaching, O Bishop, command and admonish the people to frequent the church every day, both in the morning and in the evening, and never to be absent, but to assemble constantly, lest anyone, by neglecting the church, deprive themselves of the Body of Christ. For this has not been said of priests alone, but let each layman also understand that it is said by the Lord: 'He that is not with me, is against me: and he

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that gathereth not with me, scattereth.' Therefore, you yourselves, who are members of Christ, do not scatter the assembly of your brethren by not joining them. You who have Christ as your head, who, as He promised, is with you, and who imparts His communion to you, do not neglect your care for them, nor deprive your members of their due, nor divide His body, nor scatter His members, nor set before them the word of God or the necessities of this life."

From this liturgical description, it is clear that the individual gatherings of the faithful are arranged under the Bishop and with the Bishop, by the Presbyters.

[*Latin ed. p. 690*]

74 APPENDIX II.

1. He calls those who are united with others, and with all the ministers, to represent the Church as a ship, or as a flock, and he calls the people "a holy nation, a royal priesthood, a body of Christ the Lord," of which all the faithful, individually, are members.

2. Those who were admitted to these sacred gatherings and assemblies were said to be admitted into communion; therefore, to be admitted into communion signifies to be admitted into the ordered ship of salvation, into the flock of Christ the Lord, into the holy nation increased by the royal priesthood, into the body of Christ the Lord.

3. Communion is called communion because all the things that are holy in this ship, in this flock, in this royal priesthood, in this body of Christ, are communicated to all, and all participate as brothers of the same family.

4. In these sacred gatherings and assemblies, the body of Christ the Lord is so expressly represented that those who abstain are said, by this very act, to mutilate the body of Christ and to deprive it of a member.

5. In these assemblies, Christ is present and communion is made with Him.

6. Those who came from foreign dioceses were admitted into these gatherings after an inquiry was first made to determine whether they were faithful, whether they belonged to any church, and whether they held the same beliefs in the Lord; therefore, the unfaithful and those contaminated by heresy were completely excluded.

7. Therefore, those who were known to be heretics were excluded, by their very nature, from the ship of salvation, from the flock of Christ, from the sacred fellowship of brothers, and from the body of Christ, and they participated in nothing holy that the faithful shared in these gatherings. Those who had been convicted of serious crimes by judgment and had not turned to penance were also not admitted to the same communion.

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This was done through an act of authority by which the impenitent was removed from communion. Concerning this matter, the same Apostolic Constitutions, Book V, chapter 5, state: "Meanwhile, it is necessary for the Bishop to judge rightly, as it is written: 'Judge with righteousness.' And elsewhere: 'But what do you yourselves judge in your own cases? Do you not judge those who are utterly strangers to you?' Be therefore, as it were, skilled assayers. As those who examine coins reject the counterfeit ones, but retain the genuine ones, so too, the Bishop ought to examine carefully, to reject those who are infected with blemishes or are incurable, but not to amputate them immediately, nor to condemn those about whom he has no certain knowledge. For there are some who, led by envy or malice, bring false accusations against their brother, as did the two elders of Babylon against Susanna, and the Egyptian woman against Joseph. Therefore, as a man of God, you must not readily admit such things, lest you condemn the innocent and kill the just. For he who readily hears such things is more pleasing to anger than to peace. Where there is anger, the Lord is absent; for anger is the friend of Satan, I mean that anger which is moved by false accusations."

[*Latin ed. p. 691*]

II. 75. "For it is not hoped that peace will arise among three, but rather that the salvation of the Gentiles will be achieved, provided that the Church endures. Therefore, having learned these things, let those who are led by repentance reject impudent men, and let them embrace mildness. And as if to publicans and Gentiles, who rejoice in evil, lest you have fellowship with them; nay, even if they are convicted in wicked works, let them not be excused. But if, after hearing these things, they are led by repentance, and are drawn away from error, as the Gentiles do when they wish to do penance, let us send them to the Church to hear the word; but let us not communicate with them until they have received the completion of the sacrament of Baptism. And then, as the Lord taught, let him who speaks the truth be heard, and let the accused be separated, and let him be admonished to repent, in the presence of no one. But if he is not persuaded, let one or two be added to him, that, when he has committed sin, they may show him his fault; admonish him with meekness and instruction, for wisdom rests in a good heart; but in the heart of the ungodly, it is not recognized. If, therefore, he is persuaded by the mouth of three of you, he is happy and blessed! But if anyone is stubborn, say to the Church. But if he does not even hear the Church, let him be treated as a Gentile and a publican, and let him no longer be considered a Christian in the Church, but rather as a Gentile. But if he wishes to do penance, receive him. For neither did the Lord refuse to eat with publicans and sinners, and with those whom the Pharisees condemned for this reason, but He said: 'It is not the healthy who need a physician, but the sick.' Therefore, let those whom you have

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excommunicated for their sins be received when they have repented, and let them be restored to the Church, that they may not perish utterly; but let them not partake of the Eucharist, but let them go forth after the reading of the Law and the Prophets and the Gospels, that by amending their lives, they may strive daily to attend the sacred services and to devote themselves to prayer, so that they may be admitted, and those who have seen them may be rebuked, lest they fall into similar things."

Furthermore, O Bishop, do not condemn him who has fallen into one or the other sin, nor deprive him of the hearing of the word of the Lord, but rather, as a Gentile, remove him from the Church. But if he wishes to do penance, receive him. For neither did the Lord refuse to eat with publicans and sinners, and with those whom the Pharisees condemned for this reason; but He said: 'It is not the healthy who need a physician, but the sick.' Therefore, our Lord Jesus Christ instituted penance.

[*Latin ed. p. 692*]

76 APPENDIX II. with exhortation and conviction, offer him consolation, support, and those remedies which cover the wound, applying them and saying: "Be comforted, my consolers." Moreover, if the wound is suppurating and the limbs are relaxed, it is necessary to fill it with a gentle poultice, filled with flesh, so that it may restore vigor to those who are languishing in body and spirit, equal to the healthy part, lest excessive pain arise. But if it has contracted filth, and hatred has sprung forth, for a very sharp tongue is exceedingly bitter, cleanse it with a mordant powder, that is, with a vehemently corrective discourse. But if anyone has turned to repentance and has confessed his fault, then apply a soothing ointment, as to the day of judgment, a threat. If it festers, admit him as a son who has been cured, that prodigal, who, after having squandered his patrimony with harlots, returned. And just as the Ethiopian, after being cleansed with baptism from head to foot, is brought into the church, and oil or ointment or balsam is applied to him, so likewise lay your hand upon this one, as if cleansed by penance, in the manner of a gangrenous member decaying, that all his members may be restored, and that all may pray for him, so that he may return to his former state with consideration and counsel. And if any of your brothers offend you, reconcile yourself to him, saying to him: "You are always with me, and all that is yours is mine." For it is fitting to rejoice, because your brother was dead and is alive again; he was lost and is found. For God not only forgives the penitent, but also restores them to their former dignity. From this sufficiently lengthy description of the method by which a Bishop should proceed to remove from communion those sinners who have been convicted in judgment, it is abundantly clear that the following are necessary: I. He who, having been convicted of grievous sin, after fraternal admonitions, remains stubborn and does not cease from sinning, must be removed from the communion of the faithful. Such a removal is

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effected by authority.

[*Latin ed. p. 693*]

ii. 77. The episcopal rite was performed, which, as we read in the sacred liturgy concerning this, established the Christian who was impenitent in this state, with regard to the Church, in which state he was placed, namely, in the communion of the faithful, communicating: in which his rights concerning the Church are found. Not only is the real Body and Blood of Christ signified, but also the fruits of the sacrifice offered by the priest, which he had received through baptism.

3° Therefore, such a Christian, being removed from the authority of the Church, was deprived of those rights before the Church which he had acquired through baptism.

4° He could not again acquire these rights, unless, having broken his obstinacy, he sought repentance; repentance, according to the public law, was completed through an act of authority before the Church, restoring him to his former position. Such an absolution was considered as a new baptism, by which all the rights of baptism were revived before the Church.

5° To the sinner thus expelled from the Church (and seeking repentance), I will also adduce another example, drawn from the African Church in the time of St. Cyprian, in the famous case of the schism of Felicissimus and others. Felicissimus, a wicked man, co-opted into his communion those who had fallen away during the persecution, without imposing any penance, nor without any act of confession: he did not allow those who communicated with schismatic bishops to communicate with him.

6° But it is fitting to refer to letter 38 of Cyprian, which Cyprian wrote to his suffragan bishops: it is of this tenor. "Cyprian to Cledonius and Herculianus, greetings. Since it has come to our attention that some, following the example of certain others, have rashly and unjustly communicated with those who are separated from the unity of the Church, we judge it necessary to remind you, our brothers, that you should diligently warn those who have acted in this way, so that they may return to the path of truth and unity."

7° For the communion especially consists in the participation in the fruits of the bloodless sacrifice publicly celebrated, in the participation in all prayers, in which the earthly Jerusalem, in the celebration of the sacrifice, is united with the heavenly Jerusalem.

[*Latin ed. p. 694*]

TS _ APPENDIX II. "To the college of priests, and also to the presbyters Rogatianus and Numidicus, greetings." "I am greatly saddened," brothers, my dearest, having received your letters, that, as has always been my intention and desire, to preserve the entire brotherhood safe and the flock

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untainted, according to what charity demands; now you announce that the Most Blessed one has been greatly and insidiously plotting, so that, besides the old frauds and robberies, of which we have long since learned much, he is now also attempting to divide a portion of the people with the Bishop, that is, to separate the sheep from the shepherd, and the children from the parent, and to scatter the members of Christ.... "And after all these things, not moved by the honor of my place, nor broken by your authority and presence, but driven by his own impulse, he has stirred up the peace of the brothers, and has rushed forth with many, contesting with rash fury the leader of the faction and the prince of sedition (in which, indeed, I rejoice that many brothers have withdrawn from this audacity and have yielded to you, so that they may remain with the mother Church); meanwhile, the Most Blessed one, having threatened those who would not communicate with him on the mountain, that is, those who would communicate with us, will receive the sentence that the former directed, so that he may know that those who abstain from us have announced that they have understood, and they have asserted that they will approve. All these things we will know when we, together with many of the college, shall have convened in the presence of God. But Augendus is to be commended, who, not thinking of the Bishop nor the Church, has associated himself with his conspiracy; if anyone perseveres with him, let the sentence be pronounced that he, in his faction and rashness, provoked. But let everyone who has joined himself to his inspiration and faction know that he will not be communicating with us in the Church: he (the Most Blessed one) has voluntarily chosen to separate himself from the Church. Read my letters to our brothers, and also send them to Carraginus in Clema, adding the names of those who have joined themselves to the Most Blessed one." The Bishops Caledonius, Herculanus, and Victor completed what Cyprian had ordered with these last words, sending this circular letter to the African churches, which, among the works of Cyprian, is letter 39. "Caledonius, with Herculanus and Victor, to the college of priests, and also to Rogatianus with the presbyters, greetings." "We have withheld communion from the Most Blessed one and Augendus, and also from Repostum, concerning the abominations, Irenaeus, the reader, and Paula, the sacristan; as you know from my notes. Also, we have withheld from Sopronius and himself concerning the abominations, and from Soliasium Budinarium. "Also, the crime of adultery is added; * The same Cyprian, having been removed from his diocese, finally addressed the entire people:

[*Latin ed. p. 695*]

ix ii. 79 Finally, he concludes the letter in this way: With this same schism, these things, among others, were denounced, and he ordered that through the letters which were sent to me, number 40: "If anyone should wish to do penance," and, rejecting God, should satisfy himself, "may it be granted

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to the most blessed and to his followers, indeed, even to those who are ignorant, and silent concerning the punishments which the schismatics deserved, that they may return to the Church, and that, not having been cast out by us, they may themselves, according to their conscience, give judgment against themselves." And after other things: "They will not offer peace, who themselves do not have peace." They promise to bring back and restore to the Church those who have fallen away from the Church. God is one, and Christ is one, and there is one Church, and one chair, founded upon the rock which is Peter, by the voice of the Lord. Another altar cannot be established, nor can a new priesthood be created, besides the one altar and the one priesthood. Whoever gathers elsewhere, scatters. He is an adulterer, he is impious, he is a sacrilege, whatever he may do, by which the divine order may be violated. Depart far from the contagion of such men, and avoid their words as you would cancer and the plague, as the Lord forewarns, saying: "The blind and the deaf are they..." Let no one, brothers, lead you astray from the ways of the Lord. Let no one snatch you Christians away from the Gospel of Christ, let no one take the children of the Church away from the Church; let those who wish to perish, perish alone; let those who have gone away from the Church remain alone outside the Church. Only those who are not with the bishops are not with Christ.

And in the most excellent letter which Cyprian wrote to Bishop Cornelius, which is number 55; among many things, these are found: "Having read, brother most beloved, the letters which you sent through our brother Acorluthus, and having found them full of fraternal love, and of ecclesiastical discipline, and of priestly censure, by which you have denounced Felicissimus, the enemy of Christ, not a new one, but one who had long ago been rejected by us and by many other bishops for his most grievous and serious crimes, and who, having been rejected by you, and having come with a host and a desperate faction, was, by the power of the people, as it is fitting for bishops to act, driven out of the Church; from which he had long ago been expelled, along with his like, by the majesty of God, and by the severity of Christ our Lord, so that he might not be an author of schism and discord, nor a defrauder of money entrusted to him, nor a ravisher of virgins, nor a destroyer and corrupter of many marriages, and so that, beyond all this, he might not further dishonor the Bride of Christ, the holy, chaste, and pure Church, by his presence and by his impudence."

[*Latin ed. p. 696*]

APPENDIX U. concerning the contagion of incest. But let it not be an obstacle, etc." Furthermore, having read another of your letters, brother, I found a most excellent exhortation, and after having added what I wrote in my previous letters, I wrote: "I am astonished to see that you desire all to return to the Church, and I observe that you have turned away from our comrades in arms within the camp of Christ and the dwellings of God the

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Father, having been moved by threats and terrors; I conceal many things from you, brother, according to all that you have written, and I gather that, even while threatening the most extreme despair, and things that are committed to God, you say: 'If I were to examine fully, with the full judgment of religion, the letters which they brought, I would not have received them, but would have publicly rejected them, and would have declared them to be full of more faults than is fitting, and would have uttered many shameful and scandalous things with my own mouth.' I am not displeased, brother dearest, if this is the case, that those who return with repentance should fear the audacity of the most wicked, and that their satisfaction should be humble, and that they should confess their sins simply and with a contrite heart. But if there are those who think that they can perfect themselves towards the Church not through prayers, but through threats, or who believe that they can gain entrance not through lamentations and supplications, but through errors, then the power of the episcopate and the sublime and divine authority of the Church are at stake; nor can Christians any longer endure or exist, if it has come to this, that the perishing should frighten us with threats and deceptions. For both Gentiles and Jews threaten, and heretics, and all those whose hearts and minds the devil has possessed, testify daily with his poisoned voice; yet for this reason, it is not to be abandoned, because they threaten, or therefore is the adversary and greater enemy of Christ, who seeks only to conquer and to claim dominion in this world. But with us, brother dearest, the strength of faith must remain immovable, and a virtue that is stable and unwavering, against all the assaults and attacks of those who offer insults; let it be like a rock against which the waves of the most violent storms break. And let our invincible and valiant camp of Christ, and the Lord protecting it, not yield to threats. The priest who holds the Gospel of God and guards the precepts of Christ cannot be conquered." And after another letter, Cyprian concluded with these words: "Thus, that contagion of venomous words and pestiferous threats which had reached us, let all of that be removed from the ears and hearts of our brothers, and let the integrity and sincerity of the good be cleansed from all the filth of heresy. But let our most beloved brothers henceforth bravely avoid the words and conversations of those whose

[*Latin ed. p. 697*]

IX. "The word, like a cancer, spreads: just as the Apostle says, those who receive it from the corrupt are corrupt. No society of faith and perfidy can exist: he who is not with Christ is against Christ, and he who is against Christ is an enemy of his unity and peace, and cannot remain with us. If, with prayers and penances, they come, they will be heard: but if they utter curses and threats, they will be rejected." From these things, the following is briefly stated: "He who is perverse in his mouth brings ruin, and he

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conceals fire in his lips." Furthermore, it is again said: "Hedge in thy ears with thorns, hear not a wicked tongue, and make doors and bars to thy mouth." And again: "The wicked man obeys the tongue of the wicked, but the just man does not attend to the words of the wicked." Although I know, by divine providence and careful vigilance, that you cannot be harmed by the poison of heretics, and that you will not be deceived, yet, because of the abundance of our concern and charity, I have written these things to you, so that you may be instructed, and that you may not associate with schismatics, nor have fellowship with the wicked, but rather be separated from them as much as they are separated from the Church, because it is written: "If a man despise the Church, let him be to you as a Gentile and a publican." And the blessed Apostle does not merely warn us, but commands us to avoid such people. "I command you," he says, "in the name of our Lord Jesus Christ, that you withdraw from all those who walk in disorder and are not according to the tradition." For it is written: "They corrupt minds with the worst of fables." And again: "Avoid a heretical man after his first transgression, knowing that he is perverse and self-condemned."

Furthermore, because the excommunication imposed for sin does not separate a person from the faith, but rather, like a sinner seeking fruit, leads him to return to the good through repentance, the excommunication inflicted upon those who, through schism, separate themselves from the unity of the Church, is not intended to separate them from the Church, but rather to show them that, by their own actions, they have already separated themselves from the unity of the Church, which is one and rests upon the foundation of the Chair of Peter.

However, excommunication, from the part of the Church, is necessary, not to separate, but to prevent schismatics, who are already separated by their own actions, from believing that they have a right to return to the unity of the Church, and to instruct the faithful that schismatics are to be rejected by the Church of our Lord Christ, and, consequently, that whatever pertains to the communion of the Church is to be denied to them.

Therefore, if someone despises the Church, let him be to you as a Gentile and a publican. And the blessed Apostle does not merely warn us, but commands us to avoid such people. He commands us, saying, "I command you in the name of our Lord Jesus Christ, that you withdraw from all those who walk in disorder and are not according to the tradition."

[*Latin ed. p. 698*]

83 APPENDIX II. Whether, or through heresies, ecclesiastical discipline separates [individuals] from [the Church], or declares them separated, depends on the varying state of the Church, and thus the true unity of the Church is maintained, both in communion and in faith; however, the substance of communion and faith remains firm and unchangeable, since it itself must be preserved. In other words: excommunication is an action of

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the Church, and from it arises the reaction of the sinner, through canonical penance; it is the reaction of the Church, in order to protect and defend itself, and to repel the actions of schismatics or heretics or apostates, as S. Leo the Great indicates in his letter to the Alexandrinum of the Dioconians, of which I made mention on page 69 above.

From what has been explained, and from the documents presented, it is now sufficiently clear that excommunication, for various crimes, in one way or another, and for various reasons, always has in common the fact that it is a deprivation of the right to participate in the goods of the Church which are common to the faithful because of Baptism: although this deprivation may be greater or lesser, depending on the gravity of the crime, or may be total, depending on the authority; on this matter, I will speak further below.

Furthermore, it appears that with such excommunications, social communion is also prohibited; especially for this reason, so that the faithful are not affected by their contagion. Those who adhered to schism were, moreover, publicly punished by this very excommunication, and were not denounced by authority.

I would never end my examples drawn from antiquity, which illustrate discipline; for although these examples are numerous, they illustrate the discipline: for although a sinful man loses the sanctifying grace by divine law, and because of the loss of this grace, he cannot merit eternal life through good works; for the same reason, he cannot participate in those goods of the Church which presuppose the state of grace.

[*Latin ed. p. 699*]

n. 3. In order that a person may again attain to grace and become a partaker of all the good things of the Church, the impediment is the state of sin, which is removed by the sacrament of Penance. Conversely, a sinful person who is excommunicated has a double impediment, one being the state of sin, and the other being the excommunication itself, inflicted for a particular sin. When a person, by reason of excommunication, is deprived of the ability to participate in the good things which are in the power of the Church, and which are common to the faithful, he cannot be reconciled to God through the sacrament of Penance, unless he is first reconciled to the Church, which will make him capable of participating in the good things of the Church, and therefore of receiving the sacrament of Penance. From this it is already clear what is meant by the reservation of sins, because of the reserved censure, a matter to which we shall return in Appendix V. He will be in the body of the Church as a withering member, or a branch deprived of the sap of the vine, which, nevertheless, can participate in some part of the good sap in order to regain life. For the charity of the Church is great, and the power of heroic virtues, and the meritorious man. A sinful person who is excommunicated does not participate in these good things, not only by reason of the reserved censure, but also because, by ecclesiastical law,

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he does not participate in them. Moreover, he does not participate in those good things which are common to the faithful, because of his share in the body of the Church, to which he is like a branch grafted onto a fruitful vine. For the excommunicated person is not only a withering member and a branch deprived of sap, but also a member cut off from the body, and a branch cut from the tree. Nevertheless, the closer he remains to the most fruitful tree from which he was cut, the closer he is to the hope of salvation through a new grafting onto the vine, under whose shade he lies lest he be «completely dried up or withered.» Such metaphors, taken from the human body and from the vine, are much more suitable for understanding the matter than examples taken...from various human societies, in which you will find no example that explains better what is meant by participation in, or communion with, the spiritual goods and the goods of the Church. For the Church is such a society, which has no similar example in the natural order. Therefore, a sinful person has only one impediment to reconciliation: THE SENTENCE OF EXCOMMUNICATION. Excommunication, which is said to be "latae sententiae," that is, which, with the very act of committing the crime, is joined to the will of the excommunicator, so that the act committed is in place of the sentence of excommunication; in the past centuries of the Church, this was rarely the case when it came to crimes which, by their nature, did not separate a person from the unity of the Church, as can be seen in the canons of the Apostles, in which excommunication is sanctioned not in other words than these: "Let it be added:"

[*Latin ed. p. 700*]

APPENDIX II. be deprived of communion: it is fitting to be deprived of communion; let him be condemned: let him be separated from the Church; let him be segregated: let him be separated: let the penalty of segregation be imposed: let the penalty of segregation be inflicted. The Council of Nicaea used the same terms, and the meaning of those words, and of their words, is found in the subsequent canons of the councils. But another precaution was upon, when dealing with crimes that by their very nature separate from the unity of the Church, such as the crime of apostasy from the faith, the crime of heresy or schism: for these crimes carried with them excommunication, not indeed by any special canon, but by the very nature of the crime, so that when fully consummated, the unity of the Church, or of the faith, or of communion, could not be preserved: for the unity of the Church has such a relationship to heresy or schism fully committed, as affirmation and negation have to each other. Thus, for example, the Council of Nicaea, after publishing the Creed, added: "But those who say: 'There was a time when the Son was not,' and 'Before he was born, he was not,' and 'He was created from nothing,' or who say that he was of another substance or essence, the Catholic and Apostolic Church anathematizes these." That is to say, when the doctrine of the faith is declared and proposed, those who contradict it

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are, by their very act, condemned by the Church, and anathematized: for they are judged to be damned in their own conscience. Likewise, those who have fallen away in persecution, or others who have apostatized, of whom there is mention in the canons 11, 12, 14 of the Council of Nicaea, or heretics, such as the Paulianists, of whom the 19th canon of the same Council speaks, were considered as being separated from the Church, and therefore, by that very fact, deprived of communion with the Church. In the Council of Gangra, held at the end of the 4th century, twenty dogmatic canons were established, and each was provided with the clause of anathema. Thus, for example, canon I states: "If anyone condemns marriages, and detests or considers blameworthy the woman who is faithful and religious to her husband, as if she could not enter into the Kingdom of God, let him be anathema." II. "If anyone condemns the one who eats meat (except blood, and that offered to idols, and that which is strangled) with reverence and faith, as if he had no hope because of such consumption, let him be anathema." Concerning this anathema, the same Fathers of Gangra wrote in their synodal epistle: "Therefore, this Council was held in the church of Gangra, so that these canons might be explained, of which we are reminded outside the Church. And if anyone has condemned these things, which they have thought wrongly, let them be acceptable if they repent of them; and therefore, the Synod believed that each thing should be explained that it ought to condemn. But if anyone denies these things..."

[*Latin ed. p. 701*]

"For today, those who are condemned as heretics are excommunicated and anathematized. And they will not only be deprived of the common [sacraments], but will also be expelled from the Church." In this document, these final words are clearly stated: "And they will not only be deprived of the common [sacraments], but will also be expelled from the Church." For not all who are deprived of the common [sacraments] are expelled from the Church; but, conversely, those who are expelled from the Church are, by that very fact, deprived of the common [sacraments]. However, this separation, which arises from the nature of the crime, and the anathema, by which the Church pursues them according to their nature, did not prevent, given the circumstances, the heretics from being anathematized by a special act of authority. This act of authority is entirely necessary, when doubt arises as to whether a doctrine is heretical or not, or when some are concealed under the guise of sheep, which happened very often. For heretics used to differ from apostates from the faith or schismatics in that they presumed to spread heresy under the Christian name, while heresy is, in itself, opposed to the unity of faith, but not in the same way to the unity of communion. Therefore, in order to distinguish wolves from sheep, the rule was observed that the suspected should be called to judgment, so that by explicitly detesting their errors, they might dispel their suspicion; and

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if they were found guilty, they were deprived of communion. This detestation of errors is called canonical purgation. There are excellent examples of this canonical purgation in the letters of the Great Leo. I will mention only one example, which is found in his letter to the Bishop of Aquileia (1) in these words: "We have learned that certain priests and deacons, and other clerics of various orders, whom the Pelagian or Celestinian heresy has involved, have entered into communion within your province, so that no condemnation of their error was required from them; and that, through excessive negligence, wolves disguised as sheep have entered the fold of the Lord, not having laid aside their bestial nature, and that, by the authority of our canons and decrees, it is not permitted even to those who are not openly rebellious; so that, having left the churches in which they either received or held their office, they may spread their instability, always loving to err and never remaining firm in the Apostolic foundation. For those who are not subject to any examination, and are not restrained by any prejudice in their profession, seek the greatest advantage, which is to draw more people into communion under a false name, and to corrupt the hearts of many." (1) This letter is found in Vol. I, Appendix to the Roman Bullarium, Taurinensi edition, p. 1. A similar one is addressed to the Most Reverend Septimus, ibid., p. 3.

[*Latin ed. p. 702*]

86 APPENDIX II. "that they might be able to do so, if the prelates of churches exercised the necessary diligence in the reception of such individuals, so that no one of them might stray into error. Therefore, let this be further attempted, and let it not be the case that, through the negligence of some, ruin is introduced, leading to the destruction of many souls. By this our authority, we exhort you, that, when you have assembled in a provincial synod of priests, that all, whether presbyters or deacons, or clerics of any order, who, through imprudence, have been received into Catholic communion from the association of the Pelagians and Celestians, that before they are restrained from the error of their condemnation, at least, after some part of their hypocrisy has been revealed, they may be compelled to true correction, which may be beneficial to them and harmful to no one. Let them openly renounce their proud errors and detest whatever in their doctrine the universal Church has abhorred: and let them embrace and fully approve, with open and proper signatures, all the decrees of the synod which the Apostolic See has confirmed for the extirpation of this heretical sect. Let nothing in their words be obscure, nor anything ambiguous. For we have upon seeing that this is their trickery, so that in any particular point of doctrine, which they have separated from the solid foundation of condemnation, they may consider that nothing of their own feelings is safe. And after other things: "Therefore, be careful, beloved, and provide with great diligence, lest such individuals stir up scandals, and that some seed

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of the same evil may arise in your province from a dogma that was once excised; that it may not only grow in its roots, but also infect the very body of the Holy Church with its poison. Those who wish to appear corrected must cleanse themselves of all suspicion; and let them prove to us that they are ours. And if any cleric, or any layperson, refuses to comply with salutary precepts, let him be expelled from the communion of the Church, lest he be considered a betrayer of the salvation of his own soul." Therefore, returning to the point from which I briefly departed, while those who openly declared themselves heretics, or apostates, or schismatics, were, by their actions, excluded from the unity of the Church, a similar reason was gradually introduced into the Church for excommunicating other sinners for certain determined crimes, which is called excommunication *latae sententiae*; so that the crime committed was in place of a judicial sentence. The older canon, which presents itself to me, in which some example is found of excommunication *latae sententiae*, is that which is read in the Decree of Gratian, canon 24, cause 24, question S, taken from the Council of To-"

[*Latin ed. p. 703*]

In the year 1179, at the beginning of the fifth century, a synod was held in the city of Trent. This canon, which is repeated twice, establishes a rule of discipline, which we have seen to have been observed in the early centuries of the Church: "If any cleric, or any lay person, shall have despoiled another of his property, or shall have committed sacrilege, and shall refuse to come to the Bishop, when summoned, and shall despise the summons, let letters be sent forthwith by all the Bishops of the province, and by those to whom it may be possible to send them, so that he may be excommunicated, and that he may not obey, nor restore what he has taken."

Indeed, since the means were lacking, by which the offender could be compelled to appear in judgment, and since he despised the judgment itself, the contumacy was broken by the sentence of excommunication, incurred by the very fact itself, until he should make satisfaction.

Such a method of excommunicating those who, by their contumacy, were hindering the administration of justice, or who were guilty of frequent offenses, or who, because the local ordinaries were less diligent in summoning offenders to judgment, could not easily be compelled to appear: this method was prohibited by a salutary law: for, by this means, the offender, being punished for the crime committed, would leave no other recourse to the ecclesiastical authority, than to be declared innocent by some summary proceeding, if it should be necessary, of having incurred excommunication.

I said, "if it should be necessary": for, indeed, when the very crime committed was notorious, there was no need of a judicial declaration. But when nothing was established regarding the social effects of excommunication, and regarding the communion of the faithful, then it became necessary

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that this method of excommunication should be used, lest, by the lapse of time, and by reason of scandals, it should become less effective; for those who were easily able to endure the crimes, and who did not suffer the judgment of authority to be carried out, because of the social effects which excommunication produced, suffered much more from being seen to be separated from the community.

[*Latin ed. p. 704*]

88 APPENDIX: Regarding the exclusion of the faithful without any judgment; all the more so, because such a declaration can be something so well-known that it admits of degrees, and therefore excuses can be offered, so that frequently what one considers notorious, another rejects as uncertain, or at least not of such a nature as to exclude the causes by which a delinquent could in some way not be excused from incurring excommunication; to which was added a certain facility with which such censure was inflicted, so that the laws were not revoked when they had sufficiently achieved their effect: hence, their number gradually increased. On the contrary, the faithful were obliged to avoid such delinquents, both in civil society and in ecclesiastical communion, even under the sanction of censures. To avoid such scandals, Martin V, by a Constitution published, decreed the following in the Council of Constance, as it is read in Harduinum, Conc. T. 8, column 892: "It is to be observed, unless the sentence or censure of this kind has been publicly proclaimed or denounced, either against the person, college, university, church, community, or a certain place, or a certain person, expressly and specifically." Notwithstanding any Apostolic Constitutions or other enactments to the contrary, except, if it is clearly known that a sentence has been pronounced against someone for sacrilege or violence against the clergy, and that this fact cannot be concealed by any tergiversation, nor excused by any legal means. For, we wish to abstain from communion with that person, if he has not been denounced, according to canonical sanctions. This Constitution was repeated in the Council of Basel, with a modification: for it is read in the same Harduinum, volume 8, column 4494, in session 20, chapter 2, under the title "Concerning those who are not to be avoided in a certain manner, to prevent scandals and dangers, and to assist those who are afraid," and the words of the Constitution are: "To the end that, for the sake of preventing scandals and many dangers, and to assist those who are afraid, we mercifully grant to all faithful Christians, by the tenor of the present document, that no one shall henceforth abstain from communion with anyone, nor in the administration or reception of the Sacraments, nor in any other divine matters, nor under any pretext of a sentence or ecclesiastical censure, generally promulgated by law or by a person, but shall abstain from communion with him (by the synod), according to canonical sanctions. By this, however, we do not intend to include those who are excommunicated, suspended, interdicted, or pro-

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hibited."

[*Latin ed. p. 705*]

"It is apparent that some are eager to find fault, and do not hesitate to offer their opinions, even when it causes distress. But it would be nothing if such a regulation were contained only in the acts of the Council of Basle; but the same clause was repeated in the Council of Lateran V, § IX, and other censures, publicly pronounced before the Church or in the external forum, are in some way converted into censures for the pronouncement of a sentence, except for the sacrilegious and notoriously wicked, and those who assault Clerics (I). I said 'before the Church' or, which is the same thing, 'in the external forum': for we decree under Leo X that, inasmuch as in the internal forum, the censure of a sentence, whenever it is incurred, retains its effects according to what is laid down in canon 6, cause 24, so these words are understood: 'Indeed, what is imposed on earth is bound in heaven, and what is loosed on earth is loosed in heaven.' For when the Church excommunicates, the excommunicated is bound in heaven; when the Church reconciles, the reconciled is loosed in heaven. I said that the censures of a sentence are in some way converted into censures for the pronouncement of a sentence in the external forum: for the distinction remains: the censure for the pronouncement of a sentence is incurred in the internal and external forum with the sentence itself and through the sentence itself, by the Judge who inflicts the condemnatory sentence, after the necessary legal preliminaries; whereas, conversely, a censure incurred in the internal forum, in order to have all its effects in the external forum, requires only a declaratory sentence, by which the Judge declares this or that individual (1). The exception made by Martin V, so that notorious assailants of Clerics, by ecclesiastical law, might be avoided in civil society and in divine matters, unless they were specially denounced by authority, now seems to have fallen into disuse. Nor was this exception considered in the Apostolic Constitution, of which we are speaking; for the appropriate place for indicating such an exception would be in the Articles that deal with the censures imposed on those who communicate with excommunicated individuals, especially in Article XVII, which is on page 28, or in Article II, on page 49.

[*Latin ed. p. 706*]

90 APPENDIX I I. a person has fallen under a censure lawfully imposed; and with this judgment arises an obligation on the faithful to avoid those persons who have been declared excommunicated, both in civil and in divine matters. And concerning divine matters, Articles XVII and II are relevant, the first of which is on page 28, and the second on page 49, according to the cases they address. This Constitution of Martin V, as it appears, was not enacted in favor of the excommunicated, but in favor of the faithful, so that they would not be obliged to avoid those who have been excom-

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municated but have not been specifically denounced. Therefore, although someone may have certain knowledge, and it may be thoroughly known, that someone has incurred excommunication by their actions, they are nevertheless not obliged by ecclesiastical law to avoid them in civil society or in divine matters; they may, however, avoid them and deny them the sacraments, without the excommunicated person being able to legally challenge this. Indeed, there may be circumstances in which avoidance is required by natural law, due to the danger of perversion or scandal, or in divine matters, according to the evangelical admonition: "Give not that which is holy unto the dogs, neither cast ye your pearls before swine." Furthermore, as it seems to me, this Constitution does not concern notorious apostates, heretics, and schismatics; but only those who have been excommunicated and subjected to other censures by the very act committed, for other crimes; which is deduced from various indications within the same Constitution, which I do not wish to detail here. It is understood to apply to all those who, for any reason, have been subjected to a censure by the very act committed, whether they are heretics or not; and therefore, no one is obliged by ecclesiastical law to avoid them unless they have been specifically denounced by an authority. However, everyone is obliged to avoid heretics and others of the same kind, if they are known, by the Apostolic precept: "Avoid a heretical man, for he who is condemned by his own judgment is of great danger to the faithful." Those who are absolutely notorious have nothing in common with the Church from whose faith or authority they have departed, nor should they receive ecclesiastical burial; which is forbidden by positive ecclesiastical law, and so that those who force them to be buried in a sacred place may be punished with excommunication, as in Article I on page 32. It so happened that I received a very opportune letter, which Our Lord Pope wrote to the Cardinal Vicar of Rome, of which I became aware when I received news that the public heretic, Doellinger, who denies the infallibility of the Roman Pontiff's magisterium, had already been declared a heretic by the ordinary authority of the Archbishop of Munich, and therefore, by ecclesiastical law, he must also be avoided in civil society and in divine matters, and in the usual manner of heretics, he sought to make proselytes, in order to rise up against the Catholic Church in his wickedness. And, as always happens, there were those who spontaneously adhered to his error. The same thing also happened at the University of Rome.

[*Latin ed. p. 707*]

•ix n. na, in which, after the apostates from the faith had invaded Rome on September 20, 1870, certain propositions were written down, utterly un-Catholic, under the false name of the Roman University, and names were sought to be signed, so that they might be presented as acts of adherence to the Doellingerian heresy: it must be admitted that these propositions

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were so un-Catholic that perhaps not even the heretic Doellinger himself would have signed them. Nevertheless, there were among the others six or seven of the older lay professors, experts in natural sciences, and of no particular reputation, who, having been invited, did not refuse to sign their names and to insert them among the names of the apostates: perhaps, in order to gain some public praise for themselves; for I believe that not all of the most serious errors, contained under the non-explicit words of those propositions, were understood by them. But their act of adherence to that heretical cause, solemnly written down, was enough to make them publicly manifest as having separated themselves from the Catholic Church; and if some of these do not want to be such, let them correct their error as soon as possible. Therefore, Our Holy Father, in advising concerning the education of youth in the letter which I mentioned, recalls the natural Apostolic precept that Catholics who have ceased to be Catholics should be avoided by Catholics, and applying that precept to the matter under discussion, He openly declares that it is not permissible for young people to offer themselves to them, nor to accept their instruction: He refrained from naming them as apostates, since they were already sufficiently notorious; nor was it necessary to name them in order to achieve the effect that Our Holy Father intended to achieve, and which He, indeed, splendidly achieved. Those professors were abandoned by the Catholic youth, which constituted almost the entire audience: indeed, even more than that; the noble Roman families, to whom those professors were bound either by long-standing custom, which was also very useful to them, or to whom they provided medical services, closed the doors of their houses to such men. How powerful is ecclesiastical censure, somehow hidden from public society, when it is animated by the voice of authority! The letter is of the following tenor: To the Venerable Brother Our Constantino, S. R. E., Cardinal Patrizi, Bishop of Ostia and Velletri, Prefect of the Sacred College of Cardinals, Our General Vicar in spiritual matters in Rome and its district. PIUS PP. IX. "Venerable Brother, greetings and Apostolic Benediction. A matter of the utmost importance, Venerable Brother, requires that We ask and urge you to strive with your work and study to mitigate, or even, if possible, to... "

[*Latin ed. p. 708*]

92 APPENDIX 11. The danger that our studious youth face is already present. We have, indeed, on more than one occasion, with our own hand, warned some of the leaders of the people, that, having used the authority entrusted to them from above, and mindful of their duty to defend civil society from infidelity, the most pernicious of all plagues, they should drive away from the schools those men who not only despise all duties of religion, but, filled with hatred for it, with a truly satanic spirit, corrupt, slander, and attack it. However, our warnings were in vain: either the truth was not

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understood then, or it was not desired to erect a strong wall against the progress of this monster; and therefore, it was permitted for young minds to be corrupted by perverse doctrines, and through slanderous, insidious, and most impudent commentaries, to be incited against the faith, religion, the Church, the sacred rites, and their ministers, and all things that are holy. Moreover, some, blinded by these blind and lost leaders, were even drawn to this place through the ruined walls of the city; to whom have attached themselves a few professors of various disciplines, truly of the most abject character, hypocrites, and devoid of any sense of gratitude, who, with blunted spurs of conscience, and with all religious respect set aside, have voluntarily become a sign of God's wrath, to whom they will render a most severe account for the evils they have done in Jerusalem. The example of all their impious minds and the detestable doctrine they hold is clearly seen in those writings which they have sent to Doellinger, filled with errors, blasphemies, and infidelity. Indeed, Venerable Brother, the tares cannot be perfectly separated from the wheat before that great day, when the Lord, taking his time, will judge all things with justice. However, it is fitting that it should be made known to all as soon as possible that those who have attached their names to these wicked writings have ceased to be Catholics, and are therefore to be avoided by Catholics. We, indeed, pray for them, that they may return to themselves and turn away from the dark doctrine of hell; and that, condemning what they have professed, they may strive to remove the scandal they have caused to those around them. In the meantime, Venerable Brother, you should warn all the pastors of this metropolis of the Catholic world, that it is their duty to neglect no opportunity to urge upon their young people the importance of their faith, and that they must not, in any way, allow themselves to be listeners to, or to receive the instruction of, those who have subscribed to these infamous writings; whose names, when publicly announced in the newspapers, we do not consider it necessary to repeat. May our concern, aided by your zeal, and by the piety of the pastors of this city, halt the impetuous advance of infidelity, and draw many of the young people away from the abyss of impiety into which they are being driven. We earnestly ask this of God: whose favor we invoke, and before whom we bear witness.

[*Latin ed. p. 709*]

APPENDIX II. "With paternal affection, We impart the Apostolic Blessing to you, Venerable Brother (1)." Given in Rome, at St. Peter's, on the 15th of May, in the Twenty-fifth year of Our Pontificate." ON THE DISTINCTION BETWEEN THOSE EXCOMMUNICATED FOR APOSTASY FROM THE FAITH, DUE TO HERESY OR SCHISM, AND THOSE EXCOMMUNICATED FOR OTHER CRIMES. We have touched upon the distinction between the two types of excommunication above. Those who have committed the crime of apostasy from the Catholic faith, for example, because,

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with deliberate will, they have passed over to the profession of some superstition, whether of the Jews or the Mohammedans; or because, abandoning the Church, they have formally surrendered themselves to Satan; or because, having abandoned the immutable faith of the Church, they follow spiritualism; or because they deny or reject, with a firm mind, Divine Revelation, as do those who profess rationalism, naturalism, or atheism: all these, manifestly committing the crime of apostasy, have no claim by which they can in any way claim to be Catholics; therefore, they ought to acknowledge that they are outcasts from the Church, and consequently, excommunicated. Such deserters, enemies of God and the Church, who in these calamitous times seek to spread heresy and incredulity in every class of the human family, especially target the poor youth, since those who are naturally more pliable and less experienced can more easily be deceived to better serve their own designs. Knowing how much influence example can have on the minds of young people, especially if it comes from those who are given to them as teachers in the arts and sciences, they do not cease to praise the fact that some Professors in Rome have recently adhered to heretical doctrines, to the shame of the Church.

"Therefore, the Holiness of Our Lordship, deeply moved by the danger of subversion that threatens the studious youth on the part of those who make themselves their guides in science after having deviated from the faith, has raised His Apostolic voice to warn them of the fault committed and of the divine punishments that await them, if they do not realize it and do not repair the scandal given to their neighbors. For this purpose, the same Holiness has deigned to direct to us His venerated Autograph, dated May 15th, of which we transmit a copy to the Reverend Pastors of this beloved City, with which He orders us to exhort them to double their zeal and commitment to save from the abyss of impiety the young students entrusted to their care."

"Therefore, let the Reverend Pastors use the word, in public and in private, in order to dissuade them from listening to the lessons of teachers who have shipwrecked in the faith. For if Catholics are to avoid heretics, lest they be perverted, according to the Apostle, how much more should they do so when it comes to teachers who, under the pretext of science, could more easily instill in the minds of their students the poison of incredulity?

"Finally, let the young people remember that the beginning of wisdom is the fear of God, and that true science can never be that which opposes the doctrines of the Catholic Religion."

From Our Residence, May 17, 1871.

CONSTANTINE, Cardinal Vicar.

[*Latin ed. p. 710*]

APPENDIX: They are excommunicated, anathematized, and con-

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demned, not because any law or canon requires it, but because it is fitting that such be done. It is not necessary to institute a cause for the faith, since they themselves cannot deny their superstition, which is contrary to the deposit of faith that the Catholic Church inviolably safeguards; nor is it necessary to institute a cause for fact, since we are speaking of those who have manifestly completed their apostasy. Therefore, all of these separate themselves from the Church, and, conversely, the Church considers them, as a matter of fact, to be separated, as it has always done: "They are gone out from us." And you shall not say, "Welcome," to them. Indeed, the Apostle's opinion in the Epistle to the Hebrews, chapter 6, verses 4 and following, is very grave concerning these matters. For it is impossible (that is, it is extremely difficult) to restore to repentance those who have once been enlightened, who have tasted the heavenly gift, and have become partakers of the Holy Spirit; who have tasted the good word of God and the powers of the age to come, and who have fallen away, crucifying to themselves the Son of God and exposing him to reproach, just as they did before. For the earth drinks in the rain that falls on it many times, and produces herbs fit for those by whom it is cultivated, receiving a blessing from God; but it bears thorns and thistles when it is fit only for thorns and thistles, and is near to being cursed and burned. To this category of apostates also belong the numerous sects, now called by various names, which are so numerous in our time that you cannot even conceive of what they truly are, unless you understand their leaders and guides, whose hearts and minds the devil has possessed (as we saw above, page 80, where Cyprian says this), and who carry the banner of Antichrist. Whoever obstinately denies any article of faith, that is, any article that has been proposed by the Church or by its Head as something to be believed, and who demonstrates his obstinacy, is a heretic before the Church. The nature of the crime of heresy separates them only from the unity of faith; therefore, they may claim to belong to the communion of the Church, and not to be separated from the Church, even though they do not hold all of the faith of the Church. The Catholic Church has always condemned and detested these, as a matter of fact, and it is sufficient that the note of heresy be present, so that they may be considered to be separated from the Church.

[*Latin ed. p. 711*]

APPENDIX II. Concerning excommunications and, consequently, private communion. And in 1 Timothy 2:46 and following: "But profane and vain babblings are more hurtful than anything else, because they tend to lead to further ungodliness: for their words are like a cancer, which spreads and corrupts, and thus they disturb the Church more than those who pretend to be in the Church (1). But, on the other hand, the Church, according to the Apostle's admonition to the Galatians 4:8, has always taught: 'But

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as it is written, After you have done all these things, be steadfast.' Concerning this, Hymenaeus and Alexander, the Apostle had already written in 1 Timothy c. 4, 49 and 20: 'Having faith and a good conscience, which some have rejected, and concerning them I charge you before the Lord to turn away from these.' It is well known from the history of heresies, especially in the earlier centuries of the Church, that the Apostolic See has striven to suppress heresies and to expel heretics: the letters of St. Leo the Great are a notable example of this. It is also evident how easily heretics appealed to the Apostolic See against the judgments passed upon them by bishops, and how readily they sought a definitive judgment from the Holy See, so that they seemed to believe that they could obtain victory over their errors through the favor of the Holy See. It frequently happened that heretics were the first to appeal to the Holy See, in order to find some means of defense, although they were ultimately forced to submit to the judgment of the Holy See. The fact that heretics appealed to the Roman See to uphold their doctrines is, in my opinion, a strong argument drawn from tradition, which shows that, from the earliest centuries of the Church, there was a firm and universal belief that the judgment of the Roman See was immutable, and that all faithful, both clergy and laity, and even heretics themselves, were bound to submit to it. In the letter of Cyprian to Cornelius, which I mentioned above, in which that pillar of the African Church, in his exhortation, encouraged the same bishop Cornelius to remain steadfast against the schism of Felicissimus, the following is also recounted: "Those (schismatics and heretics) who have even gone so far as to depart from the Gospel, have taken away all hope of forgiveness and repentance from the fallen, and, entangled in deceits or stained by adultery, or defiled by the fatal contagion of sacrifices, do not pray to God, do not perform acts of penance in the Church, but have removed from themselves, in every sense and in effect, the power of repentance, unless they have constituted for themselves a gathering outside the Church, with a company of their associates who are lost, and who do not wish to pray to God or make amends. After this, they even dare to send a pseudo-bishop, appointed by the heretics, to navigate and to send letters to the See of Peter and to the principal Church, from which the unity of the priesthood has arisen, from the schismatics and 'profane' (Romans), of whom the faith was praised by the Apostle, to whom perfidy cannot have access." It seems that Cyprian is not speaking of the Roman Pontiff, but of the clergy; for at the time when those schismatics and heretics sailed, the Roman Church appears to have been vacant due to the death of Pope Fabian, as can be seen from letter 31 of the Roman clergy to Cyprian, in which it is written: "After the death of the most noble man Fabian, there is not yet a bishop appointed, due to the difficulties of circumstances and times, who can regulate all these things, and who can have reason with authority and counsel with those who have fallen." Letter 30 of the Roman clergy to Cyprian contains: "As for Privatus

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of Lambesa, you have done as you are accustomed to do, and you have wished to announce to us what concerns us; but it is fitting for all of us to excuse ourselves for the sake of the whole body of the Church, of which the members are divided into various provinces; but even before your letters, the deceit of a cunning man could not be hidden; for, before this, a certain standard-bearer of Privatus, Chic (the standard-bearer was Felicissimus), had come from his own cohort and was trying to obtain letters from us by theft and fraud; and it was not hidden, nor did he receive the letters he wanted."

[*Latin ed. p. 712*]

9 6. "Beware of such men, for they have shipwrecked concerning the faith; among them are Hymenaeus and Alexander, whom I have delivered to Satan, that they may learn not to blaspheme." Also, in II Timothy, chapter 4, verse 44: "Alexander, the treasurer, has shown me much wickedness; but the Lord will repay him according to his works, and you must avoid him; for he greatly contradicted our words." This word "avoid" indicates that he is already an outcast from the Church due to manifest heresy; therefore, according to the reasoning of Cyprian, he is already excluded from communion, or already excommunicated. Furthermore, consider Titus, chapter 3, verse 10: "A man that is a heretic, after the first and second admonition, avoid: knowing that he hath been condemned by himself, being in opposition, and that he hath sinned; for why should you condemn him when he is already condemned by his own judgment? Yet he does not cease to sin, whose words are like a cancer; therefore, be as far from him as he has departed from the Church." Those who do not deny the Catholic faith, but separate themselves from the body of the Church, or immediately from the obedience of the Roman Pontiff, the legitimate successor of Blessed Peter, are schismatics. Schism is a certain crime, which can be said to be real, because its malice consists in the act itself, that is, in the separation from the body of the Church, contrary to the divine disposition, which willed the exclusive unity of the Church through a single, universal, visible Pastor, from whom the entire flock of Christ must be fed; through a single foundation, to which all must adhere. Therefore, whatever those who separate themselves from the body of the Church, or immediately from the Roman Pontiff, may think, they will always be schismatics. Formal schism usually begins with some rebellion against the authority of the legitimate prelates of the Church, which rebellion eventually turns against the head of the Church, unless it begins immediately against that very head. The main criterion for recognizing formal schism is to see whether those who are called schismatics, in deed and in truth, strive to overthrow the supreme rule of the Roman Pontiff. For this most serious crime can easily be confused with simple disobedience, which is not schism unless it reaches the highest degree, in which separation, subtraction, and withdrawal follow,

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because of which (1) Although this handing over to Satan, whether of a heretical man or a public sinner, such as the incestuous Corinthian, is the surest sign of excommunication, it does not consist in excommunication; for this handing over to Satan, which the Apostle used, seems to me to have been a temporary punishment, inflicted by the help of Satan, in order to break the obstinacy more effectively, as an example to others.

[*Latin ed. p. 713*]

97. Such schismatics, as if separated from [the Church], cannot cease to be [considered] as not belonging to the one Church of Christ the Lord. Therefore, such schismatics are always considered by the Church to be in a state of separation, having disobeyed and thus having separated themselves from the supreme authority of the Roman Pontiff, which is divinely instituted. This separation is the first essential element of schism, to which a second element follows, as pertaining to the integrity of the schism, namely, the act by which schismatics arrogate to themselves an authority independent of the Roman Pontiff, and thus, erecting themselves in authority, they establish new churches, form congregations, and make decisions concerning the affairs of the Church, in imitation of a supreme, independent authority. In these two elements, the first being essential and the second integral, schism is perfectly complete (I). Since the Church of Christ the Lord is one, in unity of faith and communion, or governance, so that, according to divine disposition, it is one because of the one foundation of the entire building, which is the Chair of Peter, and of its legitimate Successors; the Church can never be torn apart, nor can it, by means of a private communion, be separated in any way, although the Apostolic See has never failed to do everything to bring back into its bosom those who, after the initial fury has subsided, languish in the sleep of death. The words of Cyprian are most eloquent on this matter, which I quoted above on page 79: "For God is one, and Christ is one, and there is one Church, and one Chair, founded upon the word of the Lord." Another altar cannot be established, nor can a new priesthood be created, apart from one altar and one priesthood. Whoever gathers [worshippers] elsewhere, scatters [the faithful]. Furthermore, it is impious, it is sacrilegious, whatever is instituted by human fury, so that the divine disposition may be violated. Depart far from the contagion of such people, etc. (1). With these considerations, Article III of the Constitution, which you have on page 13, is more fully understood, in these words: "Schismatics and those who pertinaciously refuse or withdraw from the obedience due to the Roman Pontiff for the time being." To perfect schism belong the first, those who come under the term "Schismatics," with whom both elements are joined: to schism, however, not perfectly complete, belong the second, those who pertinaciously refuse or withdraw from the obedience due to the Roman Pontiff for the time being, with whom is joined the first and essential element of schism. For

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example, those Armenian schismatics, who have arisen in our own days, have fostered a schism that is perfectly complete, as is clearly evident from what is narrated in the Apostolic letters, which I quoted in the Latin periodicals, Volume VI, page 274 et seq. Indeed. Imperfect schism, however, could still be said to exist before those things were done which are narrated in the same paragraph: for they had indeed only pertinaciously withdrawn from the obedience of the Roman Pontiff; the essential element of schism was present, but the integral element was lacking. It is of no consequence that the faithful claim to be Catholics and say that they are obedient to the Roman Pontiff, or that some even perform acts of obedience: as I noted above, schism is a certain crime which consists in a real separation from the body of the Church; whatever they may say with their words or think in their minds, they have openly withdrawn from the obedience of the Roman Pontiff, and they have erected themselves in an authority that is not demanded, but rather expressly denied, in which elements consists perfect schism, that is, a separation from the body of the Church contrary to divine disposition.

[*Latin ed. p. 714*]

APPENDIX: In all the crimes I have enumerated thus far, I have stated that the Church condemns, repudiates, detests, and anathematizes the manifest authors of these crimes, and this is done in a manner that should make it clear that there was a time when the Church began to condemn and anathematize such men; as if this condemnation and anathema were subject to a changeable discipline, so that at one time it might condemn them, and at another time not condemn them. But this condemnation of men, because of the nature of the crimes against the divine constitution of the Church, began with the Church, has persevered, and will persevere until the consummation of the age. Some authors might seem to speak not very well on this matter, who, while seeking to determine, for example, whether heretics who have publicly professed their heresy are excommunicated: they answer affirmatively, but they prove this by citing canon Acutius 24, question 4, chapter "Ad abolendam," and chapter "Excommunicamus," concerning Heretics, and the Bullam [Bull] of the Holy Supper, in which, moreover, excommunication is reserved to the Roman Pontiff. As if, before such canons or articles of law were enacted, heretics were not excommunicated. Moreover, if heretics were to be considered excommunicated only by virtue of these canons, it would not be difficult to show (if one were to elaborate somewhat, as is customary when dealing with penalties) that these canons include only a certain kind of heretics, and not all. And with regard to the Bullam of the Holy Supper, it has not been in use and in force in all parts of the Catholic world. But these authors can easily be excused by what I noted at the beginning of this Appendix, namely, that certain articles of law are repeatedly cited,

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in which is not contained what is intended to be shown, but which, since they recall some traditional principle that is beyond dispute, are not cited uselessly. And it is fitting to repeat here what Melchior Canus aptly observed when speaking of those who apostatize from the faith, whose words I quoted on page 67. From the observations made thus far, it is evident what distinction exists between excommunication in the case of apostates, heretics, and schismatics, and that which is imposed on other sinners. For other sinners, by the nature of their crimes, are not separated from the unity of the Church, or of the faith, or of communion; they remain in the body of the Church as members lacking life, who are in need of vivification; I speak of those who have committed grave sins and persevere in sin; they are nevertheless members of the Church. Excommunication, in the first case, is connected with the nature of the crime, by which crime those manifestly involved cannot be embraced by the Church as its members. Excommunication in the other cases depends entirely on the will of the authority, or on the positive law of the Church. The former follows those who recede, or, by their own judgment, withdraw.

[*Latin ed. p. 715*]

90. To heretics are denied [access]. Therefore, it is within her power to deny that right to the faithful, which by reason of Baptism belongs to them: the Church sufficiently demonstrates this by denying to itself and to the goods entrusted to it, to a baptized person, as if he were not a Christian, until he repents. Regarding excommunicated persons, who are said to be to be avoided, that is, those who have been specifically denounced, the Church denies them both itself and its own goods, of which it is the administrator: that is, it denies them in civil society, forbidding the faithful to have intercourse with them; it denies them in divine matters, forbidding the communion of the faithful with excommunicated persons in the celebration of divine offices, in prayer, and all the more in the participation of the sacraments. This prohibition of communion in divine matters is the primary and principal effect of excommunication before the Church, which is sufficiently evident from the foregoing explanations, and which could easily be confirmed by citing numerous canons and documents, which under even severe penalties prohibit such communion. Regarding excommunicated persons who are said to be tolerated, that is, those who have not been denounced by authority, although they are thoroughly notorious, the Church does not deny them anything in the external forum, that is, it does not forbid the faithful to have civil intercourse with them, nor does it prohibit communion with them in divine matters. However, both prohibitions always remain, whenever there is a danger of perversion or scandal, as [the Apostle] Paul says, lest the Church itself be corrupted: this is to remove the bad members that they may be healed. The former [excommunication] implies or declares that the person is an apostate, and therefore deprived

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of the Church's goods; this latter [toleration] only deprives them of those goods; therefore, they cease to be Catholics; these latter, however, remain Catholics, although, because of the deprivation of communion of goods, they may be regarded as not being Catholics. The former [excommunication] admits of no limits or degrees; this latter, at least formerly, admitted degrees, so that it did not always deprive them of all the Church's goods, nor did it always imply a grave sin: hence, a distinction also arose between major and minor excommunication. The entire tradition proclaims that apostates, heretics, and schismatics are to be avoided not only in divine matters, but also in civil intercourse; on the contrary, it is read that it was established with no less rigor regarding others, although even these were always to be avoided in divine matters.

ON THE DISTINCTION BETWEEN EXCOMMUNICATED PERSONS TO BE AVOIDED AND THOSE TOLERATED. Those who incur an excommunication for some grave crime are, by the penalty of excommunication, deprived of the right to participate in the goods of the Church which are common to the faithful, as we have seen above. For the Church is the means by which the heavenly gifts, bestowed by divine generosity upon men, are given to men.

[*Latin ed. p. 716*]

APPENDIX II. The prohibition arises from natural divine law (1). Hence, this distinction, which held sway after the Constitution of Martin V, brought about such a change in this chapter of ecclesiastical discipline, that before the Church, that is, in the external forum, when the principal effects of those laws disappeared, it was considered that excommunication was incurred by the very act. Due to the aforementioned danger of perversion, scandal, or participation in a heretical or schismatic rite, the Holy Congregation of the Holy Office frequently responded to doubts presented to it on these matters, stating that it was not permitted. It is fitting to cite an example. Giraldi, in his annotations included in the work *Thesaurus de Poenis*, under the word "Heresy," recounts the following decree: "On the fifth day of May, 1758, in the general Congregation of the Holy Office, etc." Regarding doubts proposed by a certain missionary from the city of Tenos in the Peloponnese, and transmitted to the Holy Office by the Most Reverend Secretary of the Congregation for the Propagation of the Faith on March 24th of the same year: "The Most Holy Fathers, having heard the opinions of the aforementioned, decreed: "Regarding the first point, namely: Whether it is permissible for Latin Catholics to allow or permit Greek rite priests, schismatics, and heretics to celebrate in their churches, and whether these should be admitted at the funerals of Catholic deceased. With regard to the first part of the aforementioned doubt, the answer is: it is not permitted, especially since the Patriarchs of Constantinople commemorate and celebrate the infamous

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Palamas; for this is equivalent to consenting to the heretical rites of those heretics and communicating with them in their Sacraments, with their schismatic and heretical altars defiled; or at least, to provide Catholics with the opportunity to communicate with heretics in divine matters when attending Latin churches, or at the very least, to cause scandal. However, with regard to the second part of the same doubt, to the extent that those attending Catholic funerals merely exhibit a material presence out of civil honor towards the deceased, without participating in Catholic prayers and rites, which is customary when offering funerals and bringing the deceased to the tomb, this may be tolerated; but to the extent that they use their own rites in that function or participate in ours, it is not permitted, nor should it be allowed." Regarding the second point, namely: Whether Catholics of the Greek rite, who do not have a Catholic church of the same rite, may communicate in the divine mysteries with Greek schismatics and heretics: it is not permitted, because in the case proposed, they can resort to the Catholic church of the Latins, and in the absence of a Catholic priest of the Greek rite, they can receive the sacraments from Latin priests. "Regarding the third point, namely: Whether confessors or Latin priests may administer the Sacrament of Penance to Greek Catholics, who communicate in the divine mysteries with Greek schismatics: it is not permitted except in cases of extreme necessity." For further instruction, Giraldi also recounts that a letter was sent to the same missionary, which had been written by Benedict XIV in the work *Synod. dioeces. I. 3 c. 5*, where, for the aforementioned reasons, that is, due to the danger of perversion in the faith, or participation in a heretical or schismatic crime, or scandal, he concludes: "It can rarely happen that communication in divine matters between Catholics and heretics is harmless in practice." However, understand this conclusion regarding those Catholics who participate in the rites of heretics or schismatics, attending their temples, of which case Benedict XIV speaks; but not regarding heretics or schismatics who attend the temples and rites of Catholics, in which case it cannot be said that it can rarely happen that communication in divine matters between Catholics and heretics is harmless. That is, communion in the rites of heretics or schismatics, who celebrate sacred rites, will almost always be harmful by natural and divine law; for it is a certain participation in a heretical or schismatic crime. Conversely, the admission of heretics or schismatics (who have already separated from the Church and formed a sect) into Catholic rites, as if they were members of the Catholic Church, is always illicit and wrong. However, the material admission into Catholic churches and to Catholic sacred rites is permitted after the Constitution of Martin V. Indeed, it is often useful for the salvation of these very heretics, and is entirely indifferent to Catholics. This practice is prevalent in Rome, with

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the Supreme Pontiff himself publicly celebrating the sacred rites.

[*Latin ed. p. 717*]

APPENDIX n. c., these laws have almost ceased to be observed. However, while the laws remained in force with regard to the sinner who previously had the faculty of participating in the goods of the Church, it often happened that the judge would only impose the censure on the contract itself, and only the sinner and his confessor, when he approached sacramental confession, would be involved. But furthermore, such laws, either through the mildest interpretations in their application to individual cases, or through their ignorance, which has affected almost everyone, have disappeared not only before the Church, but also, to a great extent, with regard to the sinner himself, so that many censures seem to have completely ceased. What has been provided for in the Constitutions, which are usually written, is that excommunication should be avoided, which is the major excommunication, and the toleration of excommunication, which does not universally obligate the faithful to consider even notorious excommunicates as excommunicates. ON THE APPLICATION OF THE CENSURE OF EXCOMMUNICATION INFLICTED ON THOSE WHO HAVE APOSTATIZED FROM THE FAITH, HERETICS, AND SCHISMATICS, CONCERNING A CONSTITUTION OF THE APOSTOLIC SEE. Article I. The Constitution of the Apostolic See, which you have on page 8, and Article III on page 40, inflict excommunication by the very act on those who have apostatized, are heretics, and are schismatics, and the Roman Pontiff reserves this same excommunication by a special decree of the Apostolic See of which we are speaking. The list of censures, which are undoubtedly to be preserved with full force, are those that we have considered on page 93 and following, and therefore will remain in this censure, namely, those concerning apostates, heretics, and notorious schismatics. But since we are speaking of notorious individuals, it can easily be asked, whether the Ordinaries of places, who wish to publicly announce, by the expression of the name, those who are at least leaders and accomplices, are obliged to precede such announcements with admonitions, in order that they may avoid being considered as being avoided. The reason for doubting is, because they are already notoriously considered to be excommunicated, so that a declaration, without any warning, would seem sufficient. I answer. If we are speaking of those who are not only notorious before society, but also, moreover, are against the very Catholic faith,

[*Latin ed. p. 718*]

102. Let those who rise up against the Church with a proud countenance, and who have openly manifested themselves as enemies, be warned: for any admonition, not only would be useless, but would easily give way to contempt for the authority of the one who admonishes. In such cases, there

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is no obligation on the part of the authority to admonish them. For, as I noted above from St. Cyprian (page 82), in this case, denunciation and any condemnation would be the Church's reaction, in order to vigorously defend itself and to thwart the actions of schismatics, heretics, or apostates. If we are dealing with others, who are indeed notorious, but of whom some hope might be entertained that, through admonition and the fear of denunciation, their obstinacy might be broken, then some prior admonition must be given, so that the judge may act entirely lawfully; without which, he would act validly, but not lawfully: and thus, the person specifically denounced would be subject to all the force of ecclesiastical law. The reason is that a notorious excommunicate has no right to repel this denunciation: for it produces no other effect than to obligate the faithful to avoid him, whom they, even without the obligation of the law, might have avoided, and who could have been avoided without being formally excommunicated: therefore, assuming the notoriety of the fact, denunciation would be valid without any prior admonition. However, it might be less lawful if there was hope that, through the breaking of their obstinacy, the person would reject the denunciation. For, although it is true that a notorious excommunicate cannot be condemned by denunciation, nevertheless, denunciation brings about such a change in circumstances before the Church and society, that it can easily stir up terror in the excommunicate, leading him to repentance: for, considered in itself within the present order of discipline, denunciation produces all the external effects of excommunication, as if it were a new and more severe excommunication, as the Christian people are wont to consider it. Since excommunication is often imposed to break obstinacy, it would be less proper to proceed without first testing, through some admonition, the obstinacy of a notoriously excommunicated person. However, if one observes such a course of action, which arises from the office of charity, in conformity with canonical equity, due to the serious effects that denunciation produces in the present order of discipline, one will find nothing in the sacred canons that compels the ordinary judge to give prior admonition to one who has already notoriously incurred excommunication; as is evident from chapter 26 of the Decrees, in which Alexander III decreed in the Lateran Council: "By the present decree, we ordain that prelates shall pronounce the sentence of suspension or excommunication against those subject to it, unless a canonical admonition has been given beforehand; unless, indeed, there is such a fault that, by its very nature, it incurs the penalty of suspension or excommunication."

[*Latin ed. p. 719*]

APPENDIX n. These things which I have said are true, whether it concerns an excommunicated heretic or schismatic, or any other notorious sinner who is manifestly excommunicated by the very fact of his sin, in whom there is some hope of repentance. But if it concerns a heretic in

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whom there is no hope of repentance, or it does not serve any public good to warn him, the authority is bound to publicly denounce him, because this is not only a most grievous crime, but also most pernicious to the Church and to the salvation of souls. But if it is not manifestly known, so that a person excommunicated in the external forum might be excused, for example, because the faith proposed by the Church is not sufficiently clear when dealing with a heretic, or because the fact that the heretic has denied the faith is not sufficiently evident, then it is necessary to have some summary judgment, so that it may be made clear that such a person is a heretic, and if he is convicted or confesses, if he remains stubborn, then he must be denounced as a heretic and subjected to the canonical penalties that are applicable. But if it is only established by a summary judgment that he is suspected of heresy, but it is not established that he is a heretic, then the judge must at least compel him, under pain of excommunication, to clear himself of suspicion, according to the example that I gave above on page 86 from St. Leo the Great. And the Ordinaries are bound to be vigilant in this matter, so that, whether by themselves or through their vicars, they may seriously and diligently visit their dioceses each year, and inquire into those suspected of heresy, according to c. /5 §. Concerning heretics. This part of the law, however, applies to those Catholic places in which heresy does not prevail. A different rule applies to confessors in the internal forum. For in the internal forum, if ignorance is not an excuse, a heretic is immediately to be considered as such, and therefore excommunicated, who has manifestly expressed his heresy, although the manifestation has not been notorious, nor can it be proven in a trial. For indeed, the persistent expression of heresy before one or another person immediately makes that person excommunicated by the very fact; and he who has pertinently expressed his heresy cannot be absolved from the censure incurred, without the special authority of the Roman Pontiff. But this question may be raised: whether notorious heretics or apostates, before they are denounced by authority, can induce excommunication in others who have been their believers, recipients, supporters, or defenders, who have read their books that defend heresy, and others. This question may be raised because of the Constitution of Martin V, which, as I have stated before, is understood in its entirety concerning all excommunicated persons, whether heretics or not. For every faithful person is not bound by the force of ecclesiastical law to avoid anyone except the one who has been specially and expressly denounced by authority, nor does he...

[*Latin ed. p. 720*]

104. It does not seem to apply to those censures which heretics impose: since the faithful are not bound by ecclesiastical law to consider them as heretics; and therefore, since those who believe, receive, support, defend, or read the books of those who propagate heresy or apostasy, do not necessar-

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ily become heretics or apostates through such actions, it does not seem that they fall under the ecclesiastical censures imposed by authority. Moreover, having examined the Constitution *Bulla coenae*, it is clear that articles I and II, on pages 8 and 9, concerning those who act as heretics and apostates, were drawn from the *Bulla coenae* of Gregory XIII and other subsequent documents, which I cited on pages 63 and following. These Bulls, published long after the time of Martin V, were understood in such a way that heretics would incur excommunication upon others, even if they had not been specifically denounced. Thus, for example, Charles Anthony states in his *Institutiones Apostolicae Sedis* concerning ecclesiastical penalties, that "in them, there are grave indications by which the Pontiff seems to have intended to signify that only denounced heretics incur that excommunication upon others: for in article I, page 32, in which the Pontiff wished that notorious heretics would incur excommunication upon others, this was expressly declared by the words: 'Those who compel or urge others to be handed over to the ecclesiastical authorities,' concerning the burial of notorious heretics, or those specifically excommunicated or interdicted." Also, in article VI, page 46, it is read: "Those who receive the suspension from the Order, incur it by the very law, who have presumed to receive the same Order from one who is excommunicated or suspended or interdicted, specifically denounced, or from a notorious heretic or schismatic, etc." Therefore, where the Pontiff did not declare this, it must be presumed that he did not wish for heretics who had not been specifically denounced to incur excommunication upon others. Those who receive, defend, support, and believe heretics incur a greater excommunication, as stated in chapter *Excommunicamus*, §. 1, concerning heretics, and in chapter *No verit* 49, concerning sentences of excommunication. Although it is not reserved in the aforementioned chapters, it is nevertheless reserved today in the *Bulla coenae Domini*, chapter 4, and to incur this censure, it is not necessary that the principal, that is, the heretic, be denounced specifically, because these actions are punished primarily in themselves, as Sánchez I. 2 c. 40 n. 6, and Suarez de fide, disp. 24 sect. 2 n. 7, state. The second reason is that which is indicated in the cited authority, because these actions, which are secondarily related to the cause of heresy, are not punished simply because they are secondarily related to heretics, but they are also punished primarily in themselves, because they are actions that are inherently evil, as they imply heresy: such as the act of believing.

[*Latin ed. p. 721*]

I. Concerning the detestable practices of heretics, the act of receiving a heretic because of the fostering or propagation of heresy, the act of favoring or defending heretics because they are heretics: these actions are forbidden by ecclesiastical law because they are intrinsically evil; they involve a formal cooperation in heresy. However, they are not only evil because

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they are forbidden by ecclesiastical law. But another reason, and a more universal one, is derived from the very Constitution of Martin V, which you have above on page 88. By it, the faithful are exempted from that ecclesiastical law, which, even under the penalties of censures, compelled them to avoid, in civil society and in divine matters, those who were excommunicated, although not denounced: therefore, the other laws remain in force; and this applies whether it concerns the censures imposed by heretics, or the censures imposed on the excommunicated for other reasons. It is one thing to say: I am not bound by the force of ecclesiastical law to avoid an excommunicated person; it is another thing to say: I can be a supporter, defender, or provide assistance, etc., to an excommunicated person, without incurring a sanctioned excommunication, because he is not denounced. This is not what the Constitution of Martin V addresses. This is clear from the very words and meaning of the Constitution: "For the avoidance of scandals and many dangers, and to reassure those consciences that are fearful (with these words, it is already understood what the meaning of this law is), we mercifully grant to all the faithful, by the tenor of the present document, that no one shall henceforth be obliged to abstain from, or avoid, the communion of any person in the administration or reception of the Sacraments, or in any other divine matters or external..." unless a sentence or censure of this kind has been publicly published or specially and expressly denounced." With these words, the faithful are exempted only from the obligation of avoiding excommunicated persons by force of ecclesiastical law. Therefore, the first objection is answered. The faithful are not required to treat heretics as heretics, until they are denounced, in order to abstain from them in civil society or in divine matters; but not for other purposes: for with regard to other effects of the laws, heretics, as heretics, must be treated as such, even if they have not been denounced. The second objection is answered. In Article I on page 1, and in Article 11 on page 46, it was necessary to indicate notorious heretics, so that they would be included under those articles; otherwise, since mention was made only of denounced excommunicates, notorious heretics or schismatics who had not been denounced would not have been included. Indeed, in these two articles, note the distinction, which is assumed, of which I wrote above, between those excommunicated for heresy or schism, and those excommunicated for other crimes: for notorious heretics are mentioned in these articles.

[*Latin ed. p. 722*]

f 06 APPENDIX II. are equated with excommunicated persons. Nominal denunciations are made known: which confirms what I have assumed, namely, that in articles I and II, page 8 and 9, heretics, whether denounced or not, can incur censures upon others by the authority of the Bishop or by the authority of the Roman Pontiff. Although not denounced, they can

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impose censures on others.

The denunciations made by the authority of the Roman Pontiff impose the censures mentioned in articles XVI and XVII, page 28, in which the first concerns those who are excommunicated simpliciter by the Roman Pontiff, and the second concerns those who, by knowingly and freely communicating with heretics, incur the excommunication reserved to the Roman Pontiff. It can be further asked, whether those who have secretly only signified heresy, for example, before one or a few people, so that heresy might be suspected, are subject to the same excommunication, or whether it is necessary that they be notorious, or that communicating with the excommunicated person is sufficient, provided that the heretic has only secretly signified his heresy, for example, by giving or showing favor to him.

I answer: It is sufficient that heretics are certainly known to be, in some way, believing, receiving, supporting, defending, reading their books, and receiving them in offices, so that they are persons excommunicated by the Roman Pontiff. With regard to these articles, difficulties can easily arise. The first difficulty is: when it is a question of heretics who have been denounced or who have apostatized from the faith (who are held to be in the same condition), article XVI, page 28, seems to add nothing to article I, page 8; for, while in article I, heretics are not distinguished as notorious from hidden heretics, it follows that it is not necessary that they be denounced in order to incur excommunication on others; rather, those who are mentioned therein, who are involved in that cause by knowing of their heresy, incur the excommunication in a special way reserved to the Roman Pontiff.

Furthermore, it is asked, what censures are incurred by those who communicate with denounced heretics, their readers and supporters, and in general, anyone who defends them. Do those who communicate with a heretic denounced by the Pope fall under a double excommunication?

[*Latin ed. p. 723*]

APPENDIX n. Namely, article I, page 8, which is specifically reserved to the Roman Pontiff, and also article XVI, page 28, which is simply reserved to the same Pontiff. It seems that, in the case presented, one who incurs excommunication *major* as a supporter or defender of a heretic, does not simultaneously incur the other excommunication mentioned in article XVI, page 28. The reason is that it cannot be presumed that the Pontiff, in the same law, intended to inflict a double penalty of excommunication for the same cause: for penalties are not to be multiplied unless it is established that they are to be multiplied; therefore, since supporters and defenders of a heretic incur excommunication specifically reserved to the Roman Pontiff for communicating in the crime of heresy, they do not seem to incur the other excommunication simply reserved to the Roman Pontiff, which is brought about by denunciation. For if a supporter or defender of a heretic were to incur a double excommunication for the same cause, that is, for

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communicating in the aforementioned crime, it would be the case. Writing on this very question, Filiuccius, treatise 46, number 39, was of the opinion that those who receive, support, and defend heretics, when the heretics have been denounced, incur, besides the excommunication in the *Bulla* of Communion, also an excommunication for communicating with the denounced heretic, according to chapter "Nuper, de sentent," from the excommunication mentioned in that chapter, from which our article XVI is taken, 107, as I noted on page 28. The reason that Filiuccius gives is that this cause and excommunication is separate from the first, and is not abolished or transferred by chapter 1 of the *Bulla* of the Lord's Supper. But perhaps Filiuccius did not notice in chapter 1 of the *Bulla* of the Lord's Supper, that there is a special provision for those who communicate with heretics by favoring or defending them in the crime of heresy: and in chapter "Nuper" there is a general provision for those who communicate with an excommunicated person denounced by the Pope, whether he is a heretic or a schismatic, or is excommunicated and denounced for any other reason: but the special provision prevails over the general provision, unless it is indicated in the special provision that there is an abolition or transfer. For when the legislator makes a special provision for one thing, he has already prescribed a law by which that same thing must be governed, apart from the general law: therefore, when a special penal provision occurs with a general provision, two penalties are not to be presumed to have been imposed for the same cause, but the general provision is presumed to have been transferred to the special provision, so that confusion of censures may not arise. This we have already seen in the present Constitution, when it is a question of those who usurp ecclesiastical goods, page 36, in the note. Otherwise, it must be said that when different censures are imposed for different crimes, for example, a sectary because he is a sectary, ex-

[*Latin ed. p. 724*]

108 APPENDIX II. concerning the communication [with a heretic], see article IV, page 48: if the same person is also an apostate from the faith, he also incurs excommunication, according to article I, page 8; that is, he is separated from the Church for a double and different reason. But perhaps you will say: therefore, a specific denunciation of a heretic made by the Pope would introduce nothing new. This does not seem reasonable. I reply: it introduces much: 1° The heretic is to be avoided in both civil society and in spiritual matters, according to universal Church law; 2° He is to be avoided in spiritual matters by clerics, under pain of excommunication, according to article XVII, page 28; 3° Those who admit a denounced heretic to ecclesiastical burial incur a prohibition from entering the church, reserved to the Roman Pontiff, according to article II, page 49; 4° If, perhaps, there should be a case in which, by communicating with a heretic, someone could not be considered, in any way, a supporter or defender, so as to avoid the

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first excommunication, he would not avoid the second general excommunication, according to article XVI; 5° Even an excommunicated person can denounce a heretic, in which case article XVI would fully apply to those who communicate in a criminal act with a denounced supporter or defender; 6° If a supporter or defender, by communicating with a denounced heretic, did not experience any other effect in the internal forum besides the first excommunication, he cannot fail to experience all the effects that are generated in Christian society when they are brought to life by the voice of ecclesiastical censure. If the denunciation of a heretic is made by the authority of a bishop, the same effects result, except for the fourth hypothetical case described above, and except for the second effect, according to article II, page 49, by which those who communicate in spiritual matters with a heretic, denounced by the authority of a bishop, incur a prohibition from entering the church, reserved to that same authority. But here, another difficulty may arise, namely: in article XVI, page 28, there is no mention of a person excommunicated specifically by the Pope, or declared to be excommunicated; but rather of a person specifically excommunicated by the Pope. The words of the article are: "Those who communicate with a person specifically excommunicated by the Pope in a criminal act, that is, by clearly offering him help or favor." Likewise, in the following article XVII: "Clerics knowingly and willingly communicating in spiritual matters with persons specifically excommunicated by the Roman Pontiff." Similarly, in article II, page 49, it is not a question of a declaration of excommunication made by an Ordinary or a delegated judge, but of the excommunication itself inflicted by them, as is read there: "Those who admit to divine services or ecclesiastical sacraments or to ecclesiastical burial those specifically excommunicated." Therefore, since one thing is...

[*Latin ed. p. 725*]

APPENDIX II. It is one thing to inflict excommunication for the first time, and with its own proper authority, and another to make a specific denunciation or declaration of an excommunication already incurred; it does not seem that either produces the same legal effects. Therefore, those who are specifically denounced will indeed be to be avoided according to the general law of the Church; however, they will not incur other excommunications in others who communicate in the same crime, or who admit them to the divine sacraments.

I respond. In the present order of discipline, introduced after the Constitution of Martin V, a distinction has indeed been maintained between tolerated and avoided excommunicates, as I wrote above on page 99, but no other distinction is recognized among the avoided: for both those who are excommunicated for the first time without a prior sanction, and those who are already excommunicated by a prior sanction, are specifically denounced, are to be avoided, because the condition of these excommuni-

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cates is the same. Indeed, if there is any difference, it is that those who were already excommunicated by a prior sanction are, by a new specific denunciation, in a certain way excommunicated a second time, which does not happen to others: therefore, their condition is even worse than that of others who are excommunicated for the first time. Therefore, whether they are called specifically excommunicated, or whether they are called specifically denounced or declared excommunicated, with regard to the effects of the law, it is absolutely the same. What practice confirms, as can be seen in a recent example, which concerned the priest Cyril Rinaldi, who, by his obstinacy, had not abandoned his office as judge of the so-called Sicilian Monarchy, which had already been extinguished by Apostolic authority. Furthermore, in the Apostolic letters in the form of a Brief, dated July 23, 1868 (1), the Pope spoke as follows: "Wherefore, by the authority of Almighty God and the Holy Apostles Peter and Paul, and by Our own authority, We solemnly and specifically excommunicate, anathematize, and separate from the body of the Church, the aforementioned Priest Cyril Rinaldi, who has already incurred the greater excommunication by virtue of the aforementioned warning, and We decree and declare that he is to be utterly avoided by all." You see, therefore, that even in the manner of speaking, there is no difference between specifically excommunicating and specifically declaring excommunication: for the Pope used the first manner of speaking when it was a matter of specifically declaring an excommunicate. But conversely, it may be objected: when it is a matter of a denunciation or declaration made specifically by the Ordinary, and the sanction is a Papal sanction; as, for example, happened in the declaration made by the Archbishop of Monacensis concerning the heretic Doëllinger; such a declaration...

(1) See the Latin ephemerides, Acta S. Sedis, Vol. IV, page 113 and following.

[*Latin ed. p. 726*]

It seems to pertain to a Papal excommunication: for the Ordinary does not excommunicate by his own authority, but declares that this or that person has fallen under a Papal excommunication; therefore, such a person excommunicated will be considered as excommunicated by the Pope. And from this it is also clear that if such a person excommunicated were to appeal, and could demonstrate, by Papal sanction, that he was not excommunicated, the declaration made by the Ordinary would thereby be invalidated. If, therefore, he is to be considered excommunicated by the Pope, then Article II on page 49 does not apply; but, on the contrary, Articles XVI and XVII on page 28 apply.

I answer: A person excommunicated, specifically declared by the Ordinary by virtue of a pre-existing Papal sanction, will indeed be considered as excommunicated by the Pope: but not as specifically excommunicated by

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the Pope. The reason seems clear: for the Pope did not specifically excommunicate him; he will indeed be considered as excommunicated by Papal sanction, because, by virtue of the Papal sanction, the Ordinary specifically denounced him; therefore, Articles XVI and XVII on page 28, which expressly include those who are specifically excommunicated by the Pope, do not apply. Article II on page 49 will apply, since it is true that he was declared specifically excommunicated by the judgment, or by the episcopal authority. To declare someone excommunicated, and to specifically excommunicate, as we have seen, have the same legal effect in all other respects.

Let these things be understood, as all other things, subject to the better judgment.

Having made the denunciation of a heretical or schismatic person, the Ordinary must proceed to other canonical penalties, some of which are incurred and fulfilled by the very fact itself, while others require some intervention of authority to order their execution: what these penalties are can be generally understood as follows: a heretical or schismatic person is to be deprived of all ecclesiastical goods, of which faithful may partake. Therefore, a heretical or schismatic person is irregular and unfit to perform sacred duties, to exercise ecclesiastical authority, to obtain benefices and dignities; he must be stripped of all benefices which he may possess, etc., as the canonists treat in detail.

Nevertheless, it must be noted that, in our time, not all the penalties found in the body of the law are any longer applicable: some are not applicable because of the present condition of society; others, because they have fallen into disuse. It is necessary for the judge, with discretion, and with the general principle in mind which we have just stated, and which contains the reason for almost all the ecclesiastical penalties which are found in the sacred canons, imposed on heretics and schismatics.

[*Latin ed. p. 727*]

APPENDIX II: What were the sanctions to which heretics were subjected, when both Kings and Catholic governments existed, and when both powers, both civil and ecclesiastical, proceeded with a united purpose for the good of the faithful, and therefore of the entire society? These sanctions are readily discernible from the Constitution of Nicholas III, which briefly summarizes them, and for the sake of legal learning, we add it here in its entirety. Nicholas, Bishop, servant of the servants of God, to all Christian faithful. "Let the entire assembly know that" we excommunicate and anathematize all heretics, the Cathari, the Patarenes, the Poor of Lugdunum, the Passaginians, the Iosephines, the Arnaldists, the Speronists, and all others, "whoever their names may be, although they may have different appearances, but their roots are intertwined, because they agree in the same vanity."

§. 1. Those condemned by the Church are left to the secular judgment

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to be punished with due severity, and first, clerics are to be degraded from their orders.

§. 2. But if any of the aforementioned, after having been apprehended, should wish to return to perform proper penance, they shall be banished to perpetual imprisonment.

§. 3. Those who are similarly mistaken in their beliefs are also to be judged as heretics.

§. 4. Furthermore, those who receive, defend, and support heretics are to be subjected to the sentence of excommunication. We decree that if anyone of such has been noted with excommunication, and fails to make satisfaction within a year, then from that time he shall be considered infamous by law.

§. 5. He shall not be admitted to public offices or councils, nor to the election of others for such purposes.

§. 6. He shall not be sent for to give testimony.

§. 7. He shall also be incapable of making a will, nor shall his will have any validity.

§. 8. He shall not have access to the succession of inheritance.

§. 9. Furthermore, no one shall be compelled to deal with him in any business, but he himself shall be compelled to respond to others.

§. 10. If, however, he is a judge, his judgments shall have no validity whatsoever: nor shall any causes be brought before him.

§. 11. If he is a lawyer, his advocacy shall not be admitted in any way.

§. 12. If he is a notary, instruments drawn up by him shall be entirely without value, but shall be condemned along with the condemned author, and in similar cases, we order that this be observed.

§. 13. If he is a cleric, he shall be removed from all office and benefice.

§. 14. But if any of these, after having been designated by the Church, have refused to comply, they shall be punished with the sentence of excommunication, and with due severity.

[*Latin ed. p. 728*]

§. 15. Those who are found to have publicly disputed [doctrines]: those, however, who are notable only by suspicion, unless, according to the consideration of the suspicion and the quality of the person, their innocence is suitably demonstrated, shall be bound by the chain of excommunication.

§. 20. Likewise, if anyone knows heretics, or if anyone has secretly associated with those who celebrate superstitious rites, or who are brought in by corrupt conversation, living and behaving contrary to the life and morals of the faithful, let him seek to inform his confessor or another, through whom he believes that knowledge of the heretical perversion can reach the Prelate and the Inquisitors; otherwise, the sentence of excommunication shall be

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imposed upon him.

§. 17. Likewise, judges, advocates, and notaries, shall not hinder anyone in the exercise of their office, otherwise they shall be deprived of that office forever.

§. 18. Likewise, clerics shall not receive the sacraments from such individuals; nor shall they receive alms or offerings from them; similarly, hospitallers or contemplatives, or any religious, unless they deprive themselves of their office, shall be deprived of their office, and shall never be restored to it without the special grant of the Apostolic See. Likewise, whoever shall presume to deliver such individuals to the ecclesiastical authorities for burial, until they have made suitable amends, shall be subject to the sentence of excommunication, and shall not deserve the benefit of absolution, unless they publicly and openly, with their own hands, cast out the bodies of the condemned, and that place shall forever lack burial.

§. 19. Likewise, we strictly forbid anyone to grant burial to such individuals, until they have made suitable amends, and they shall know that they are subject to the sentence of excommunication, and they shall not deserve the benefit of absolution, unless they publicly and openly, with their own hands, cast out the bodies of the condemned, and that place shall forever lack burial.

§. 21. Heretics and those who receive them, defenders and supporters of them, and their children up to the second generation, shall never be admitted to any ecclesiastical benefice or office; and if this has been done, we declare it null and void. For we deprive from this time forward those who have acquired benefices, wishing that such individuals and their descendants shall forever lack them, and that no one shall ever admit them to similar things in the future. But concerning the children, we will that their emancipation be of no effect, if it should appear that, after their emancipation, the parents have not turned away from the path of heretical superstition, but have persevered in the way of truth.

Given at Orvieto, the fifth day of March, in the third year of Our Pontificate.

This Constitution, which was promulgated by Nicholas III on March 3, 1280, traces its origin back to Innocent III at the Lateran Council IV; and it has been repeatedly promulgated by subsequent Popes.

[*Latin ed. p. 729*]

APPENDIX III. CONCERNING BOOKS OF HERETICS AND OTHERS FORBIDDEN BY APOSTOLIC AUTHORITY, AS WELL AS CONCERNING THE PRINTING OF BOOKS WITHOUT ECCLESIASTICAL APPROVAL, AND CONCERNING PROPOSITIONS CONDEMNED BY THE HOLY SEE.

The Church has always condemned the books of heretics in much the

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same way as she has condemned their authors. For, in the order of logic, that is, of ideas, their books are expressions of the thoughts and errors for which the heretics are condemned; and in the order of morals, they are infected with a stubborn hatred, with which, without any omission of effort, the heretics attack the Catholic Church. Therefore, with the same condemnation with which the Church has always abhorred heretics, she has repudiated, condemned, and abhorred their books. Let the very ancient Decree of Gelasius, Pope of Rome, concerning the acceptance and rejection of books (1), serve as an example, in which, after a catalog of canonical books, and of others which the Roman See would accept, or which it would reject as apocryphal, obscure, or uncertain, the books of heretics are condemned at the very end. It seems fitting here to mention such a condemnation, in order to confirm what I have said.

"All those writings which are not 'of Angels,' as they claim, but 'of Demons' are inscribed with the names of Simon Magus, Nicholas, Cerinthus, Marcion, Basiiides, Ebion, Paul, even Samosatenus, Photinus, and Bonosus, who fell into a similar error; also Montanus with his most obscene followers, Apollinaris, Valentinus, or Manichaeus, Faustus, Africanus, Sabellius, Arius, Macedonius, Eunomius, Cononius, Novatian, Sabbatius, Callistus, Donatus, Eustachius, Jovinianus, Pelagius, Julianus Eclanesis, Celestinus, Maximinus, Priscillianus from Spain, Nestorius of Constantinople, Maximus the Cynic, Lampetius, Dioscorus, Eutyches, Peter, and another Peter; of whom one defiled Alexandria, another Antioch; Acacius of Constantinople with his associates; and also all those heresiarchs and their disciples who taught or wrote schismatic doctrines, whose names we have not retained; not only..."

(1) This Decree, transcribed from three copies, is found at the end of Volume I of the Roman Bullarium, edition of Turin.

[*Latin ed. p. 730*]

"Indeed, [these books] have been rejected, and furthermore, by the entire Roman, Catholic, and Apostolic Church, and along with their authors and the followers of those authors, we declare to be eternally condemned under anathema and an unbreakable bond. Note here, by the way, the distinction between the books which the Roman See rejected, or which, for various reasons, did not accept, which it generally called apocryphal; and between the books which it condemned along with their authors and the followers of those authors, and which were removed from the entire Church of Christ, which is called Roman and Apostolic. Regarding the collection of books which flourished after the most illustrious invention of printing, certain rules were necessary, so that both pastors and the faithful could judge which books should be avoided. The Council of Trent provided for this through commonly known rules, which were judged to be most opportune for this time. The Council of Trent, in Session 18 concerning the

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selection of books, which is the second session held under Pope Pius IV on February 26, 1562, decreed: "Since, therefore, the Holy Synodus observes that the number of suspect and pernicious books, containing impure doctrine and widely spread, has increased exceedingly, and that, for this reason, many censures have been issued in various provinces, and especially in the venerable City of Rome, with a certain zeal, yet that this has not proven to be a salutary remedy for this great and pernicious evil; it has decided that the Fathers should diligently consider what should be done regarding these censures and books, and that they should also report to the same Holy Synodus, so that it may more easily separate foreign and erroneous doctrines from the wheat of Christian piety, like tares, and that it may more conveniently deliberate and decide on those matters which will seem most appropriate for removing scruples from many minds and for eliminating the causes of many complaints." Therefore, the Synodus of Trent, "from a great number of bishops [as I shall use the words of Pius IV in the Constitution Dominici Gregis], and other most learned men, delegated many to complete the work, with distinguished prelates, both in doctrine and in judgment, from almost all nations." After the work had been completed by such chosen men, and brought to the Synodus, the Holy Synodus decreed in Session 25 concerning the Index of Books: "The Most Holy Synodus, in the second session held under our Most Holy Father Pius IV, having selected certain Fathers, ordered that they consider what should be done regarding various censures and books, whether suspect or pernicious, and that they report to the same Holy Synodus. Having now heard, through this effort..."

[*Latin ed. p. 731*]

APPEN i) ix u. 115: "Omnino damnantur [those things]; But those who do not treat of [religious] matters, and who, having been examined and approved by the order of Bishops and the Inquisitors, are permitted [to do so]. Even books written in a Catholic manner, both by those who afterwards fell into heresy, as well as by those who, after falling away, returned to the bosom of the Church, may be permitted by the theological faculty of any Catholic university, or by the General Inquisition." In Rule X, the same chosen Fathers proposed the sanction in these words: "Finally, it is commanded to all the faithful, that no one dare, contrary to the prescriptions of these Rules, or to the prohibitions of this Index, to read or possess any books. And if anyone shall read or possess books of heretics, or the writings of any author, condemned and prohibited on account of heresy, or on suspicion of a false dogma, he shall incur the sentence of excommunication. But those who shall read or possess books which are forbidden under another name, besides the guilt of mortal sin by which they are affected, shall be severely punished by the judgment of the Bishops." The Index of books, and the very ten Rules with the sanction, after a new examination,

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were approved and confirmed by Pius IV in the Constitution. Because of the variety and multitude of books, it cannot be distinctly and conveniently judged by the Holy Synod, he commands that whatever has been done by them [the Fathers] be presented to the Most Holy Roman Pontiff, so that it may be concluded and declared by his judgment and authority. What the Fathers chosen by the Council of Trent did, is the Index of prohibited books and the well-known ten Rules concerning prohibited books: and although the Council of Trent, in the first reported Decree, considering the matter carefully, sought in some way to make the path which it had considered clear, nevertheless, in the very first Rule of the Index, the chosen Fathers, after a long examination of things, proposed this:

Rule I. "All books which, before the year 1515, were condemned by the Supreme Pontiffs, or by the Ecumenical Councils, and which are not in this Index, are to be considered as condemned in the same way as they were condemned before."

Rule II. "The books of heretics, both of those who, after the aforementioned year, discovered or stirred up heresies, as well as those who are or have been the heads or leaders of heretics, such as Luther, Zwinglius, Calvin, Balthasar Paciniotus, Swenchfeldius, and those similar to them, of whatever name, which are published by the Timini sect on March 24, 1564, or which contain arguments, are absolutely prohibited. But other books of heretics, which indeed treat of religion, are prohibited, under the penalty of excommunication itself incurred, all books of those heretics."

[*Latin ed. p. 732*]

III. These [books] were to be condemned, not only those of other heretics who treated of religion, or even the writings of any author, whether heretic or not, condemned and prohibited because of heresy or suspicion of a false dogma. This penalty of excommunication was not reserved to anyone. Here, the question arises whether this excommunication, promulgated by Rule X of the Index, ceased after the Constitution of the Apostolic See. The reason for doubting is that the Constitution contains a clause which preserves the Tridentine excommunications, as can be seen above on page 34, §. Furthermore, through these words: "Besides those hitherto mentioned, We likewise declare to be excommunicated those whom the Most Holy Council of Trent has excommunicated, either with absolution reserved to the Supreme Pontiff or to Ordinaries, or without any reservation whatsoever," except for the penalty of anathema, which was decreed in Session IV. Concerning the selection of virtuous men to whom the entire matter of prohibited books was entrusted, so that they might report on this matter to the Synod, the matter prepared by the designated men was ordered to be presented to the Roman Pontiff, so that it might be concluded and promulgated by his judgment and authority, since the Synod could not distinctly and conveniently judge this matter due to the

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variety and multitude of books. Therefore, the excommunication which is imposed by Rule X is not the judgment of the Synod of Trent, but the judgment and authority of the Roman Pontiff; and therefore, since all general censures promulgated by the Roman Pontiffs have ceased after the Constitution of the Apostolic See, except for those excepted or renewed, this must be said to have ceased, since it has not been renewed. Regarding the censures generally imposed on prohibited books, the following should be considered as the universal and sole rule: "Article [of the Index] which imposes excommunication, specially reserved to the Roman Pontiff, to those who only wish to be subject to him, who print or cause to be printed books treating of sacred matters without the approval of the Ordinary." I answer: The excommunication promulgated by Rule X of the Index ceased after the Constitution of the Apostolic See.

The reason is that such an excommunication, promulgated by Rule X of the Index, can only be called "Tridentine" in the broadest sense: for it was not imposed by the Council of Trent, as is clear from the foregoing explanation. The Synod did not...

[*Latin ed. p. 733*]

APPENDIX TU. (These are called Apostolic Letters), specifically prohibiting (expressly mentioned in the title of the book) those same books, printing them, and defending them in any way. If you compare this article of the Constitution with the words of Rule X of the Index, you will perceive, with regard to structure, a conformity, so that the arrangement of the Rule could be said to be adapted to the arrangement of this article. Indeed, the words of Rule X of the Index are these: "But if anyone shall read or possess books of heretics (with these words you have the first part of the first article) or of any author (whether he be a heretic, perhaps not very well known, or not a heretic) condemned and prohibited on account of heresy or on suspicion of a false dogma (with these words you have the second part of the article concerning books prohibited by Apostolic Letters: for it is by such Letters that writings or books of any author are usually condemned on account of heresy or on suspicion of a false dogma), he shall immediately incur the sentence of excommunication. By the aforementioned Article II, excommunication, and this in a special manner reserved to the Roman Pontiff, is incurred by those who knowingly read books of any author specifically prohibited by Apostolic Letters, and who retain them, etc. The question is raised, whether this provision applies only to books that are to be prohibited in the future, or whether it also includes those that have already been specifically prohibited by Apostolic Letters in the past. I answer: The provision also includes books that have already been specifically prohibited by Apostolic Letters. The reason is that for a long time, the practice has been in force of specifically prohibiting certain books by Apostolic Letters. Therefore, since express mention

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is made of these prohibitions, without any distinction of time with regard to the past or the future, this provision must be understood to apply also to Apostolic Letters that preceded. If this provision were to apply only to books to be prohibited in the future, and given that the aforementioned practice is in force, the word "prohibited" should have been replaced with "to be prohibited in the future" in the article. But here, some difficulties may arise: for it is known that the Roman Pontiffs have condemned and prohibited, specifically, books or writings by Apostolic Letters, under various penalties and in various ways. It is advisable to clarify the matter with examples; I will mention those that occurred after the pontificate of Alexander VII, for the reason which will appear below. Clement IX, by the Brief *Creditae nobis*, dated February 20, 1667, condemned the book entitled *Rituel Romain du Pape Paul V à l'usage du diocèse d'Alet, avec les instructions et les rubriques en françois*, and regarding this book, he decreed as follows: "In which are not only contained certain things foreign to the Roman Ritual itself, ordered by the blessed memory of Pope Paul V, but also certain doctrines and propositions, singular, dangerous in practice, erroneous, and..."

[*Latin ed. p. 734*]

Contrary to the common practice of the Church and ecclesiastical constitutions, and repugnant to them, there are certain things by which the faithful might gradually be led to already condemned errors, and infected with wicked opinions: desiring to apply a remedy to this evil, We, with the authority of the Apostolic See, by these presents, absolutely condemn those who read books condemned on suspicion of heresy. The same Pontiff, through Letters in the form of a Brief, entitled "Debitum Pastoralis," published on April 20, 1668, condemned in a similar manner the book entitled "Le Nouveau Testament de Notre Seigneur Jesus Christ, traduit en françois selon l'édition vulgate avec les différâmes du grec." And We condemn (the book under the title "Ritalis"), We reject, and We forbid, with all its impressions, readings, retention, and use, to all and each of the Christian faithful, especially those of the city and diocese of Alet, whatever their rank, condition, dignity, and prominence may be... because it differs from the aforementioned Vulgate edition and contains things offensive to the simple. Under pain of excommunication, pronounced and incurred by this very act. We perpetually prohibit this.

We do not reserve excommunication for them.

No other Apostolic Letters have been found in the Roman Bullarium which I use, in which Clement IX condemned specific books, nor have I found any in which his successor, Clement X, condemned specific books. He who succeeded them, Innocent XI, through Apostolic Letters in the form of a Bull, "Coelestis Pastor," dated November 20, 1687, condemning eighty-six propositions of Michael de Molinos, and condemning Michael

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de Molinos himself as a heretic, concluded those Apostolic Letters as follows: "Again, above all, let the aforementioned propositions be definitively condemned and rejected, and let the books and manuscripts of Michael de Molinos be prohibited and forbidden, under the same penalties and censures imposed on the transgressors." The penalty was excommunication, which the Pontiff reserved for himself.

It concerns...

[*Latin ed. p. 735*]

119. We strictly forbid and prohibit, under pain of excommunication, the printing, description, reading, retention, and use of this book by all and each Christian faithful, even those deserving of specific and individual mention, to those who should contravene this, incurring the aforementioned penalty. We, desiring and commanding by Apostolic authority, that whoever possesses the aforementioned book, as soon as these letters are made known to them, shall be entirely obligated to deliver and consign it to the Ordinary of the place.

Thereafter, the Pope extracted twenty-two propositions from this book, condemning them with equal censure. The Pope did not reserve this censure to himself; and it appears to be consistent with the censure of Rule X of the Index of books condemned on suspicion of heresy.

Clement XI, his successor, by the Brief "Cum nuper," issued on February 12, 1703, condemned certain pages, with the title "Lettre de M... APPENDIX III," in these letters concerning the censure that was universally applied to all heretical leaders' books, so that these books would be named: it was sufficient that the books belonged to them, so that they were considered prohibited or were prohibited with a new sanction.

We have not found Apostolic Letters in which Alexander VIII condemned any book by name; but his successor, Innocent XII, by the Brief "Cum alias," dated March 12, 1699, condemned the book entitled: "Explication des maximes des Saints sur la vie intérieure par messire François de Salignac Fénélon, Archevêque de Cambray, précepteur etc." Concerning which, the following is read in the aforementioned Brief: "Indeed, a rumor of such magnitude concerning the doctrine of this book has arisen that it has required the application of our pastoral vigilance... We condemn and reject, under the tenor of the present, the aforementioned book, whenever and wherever it has been printed, or in any edition or version hitherto printed, or to be printed in the future, since its reading and use could gradually lead the faithful into errors already condemned by the Catholic Church, and moreover, it contains propositions, either in violation of the meaning of their words, or by considering the connection of the sentences, that are rash, scandalous, ill-suited, offensive to pious ears, pernicious in practice, and even erroneous, namely, the 'Chanoine de B. a monsieur F.D.A. etc. Cas de conscience proposé par un confesseur de

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province touchant un ecclésiastique etc.' This book, in the same manner as Innocent XII, we condemn under pain of excommunication, without reserving it to ourselves."

However, the same Pope condemned several other books in a similar form, under pain of excommunication, constantly reserving that penalty to himself. Indeed, by the Brief "Cum sicut," dated January 28, 1704, he condemned the pamphlet, "Véritable tradition de l'Église sur la..."

[*Latin ed. p. 736*]

120. Concerning predestination and the APPENDIX III. grace, etc., under pain of excommunication, which is incurred by this very act, from which no one can obtain absolution from anyone, except from us, that is, the Roman Pontiff currently in office, unless they are in the article of death. Similarly, in the Brief, *Cum nos alias*, published on February 11, 1704, renewing the condemnation made on September 20, 1703, of certain passages in the *Ordonnance* of Leopold I, Duke of Lorraine and of Barrois, etc., he condemned certain passages: the *Acte de appel* presented by the Attorney General of Lorraine and Barrois regarding the execution of the Brief, etc., under pain of excommunication, which he reserved for himself. Again, in the Brief, *Cum sicut*, dated October 4, 1707, he condemned, under pain of excommunication reserved for himself, in the same manner, several books, which he names, and others... directly or indirectly against the Decree concerning the removal of the Archbishop of Sebastia in Holland, and if any others should be published in the future. Furthermore, the same Pontiff, Clement XI, in the same manner and with the same reserved penalty of excommunication, condemned other books specifically named, and these condemnations can be seen in the *Bullarium* of the Taurinensis edition, Volume 24, pages 307, 349, 327, 365, 366, 379, 380, 384, 390, from which he constantly reserved the penalty of excommunication for himself. It is now appropriate to see how the Roman Pontiffs more recent to our time have acted. In the *Bullarium* of Pius VII, one finds only the encyclical letter to the Greek-Melchite Bishops, *Tristis quidem*, published on June 3, 1816, in which he forbade, under pain of excommunication, until a definitive judgment was given, the works of the Archbishop of Hieropolis, German Adam. Nor are other letters of this kind found in the *Bullaria* of Pius VIII and Leo XII. Gregory XVI, through the Apostolic Letters, *Cum in Ecclesia*, dated September 17, 1833, condemned five German books with this sanction: "Therefore, we command that no one among the faithful, of whatever rank, condition, or dignity, dare to read, retain, or reprint, or have reprinted, the aforementioned books, whether printed or written by hand, or translated from the German original into any other language, under pain of suspension from divine offices for clerics, and for laymen, under pain of a greater excommunication, incurred by this very act, without further declaration, the absolution and respective remission of which we and

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our successors, the Roman Pontiffs, reserve, except only, with regard to the aforementioned excommunication, in the article of death, so that it is permissible for any confessor to absolve from such censure, as is fitting." > Not only the aforementioned books, but any other books, whether...

[*Latin ed. p. 737*]

I. Therefore, We prohibit and condemn, under the authority of these Letters, those writings, whether written or printed, or perhaps to be written and published, in which the same erroneous doctrine is either wholly or in part renewed and defended (1). We strictly forbid that they be read, printed, or retained.

I believe this to be the only condemnation of books by Gregory XVI under pain of excommunication; for the other Apostolic Letters of his Holiness that I have been able to find, which condemn various books, do not reserve, nor do they inflict, the penalty of excommunication. Indeed, through the encyclical letter *Singulari Nos*, dated July 7, 1834, he condemned a certain book entitled *Paroles d'un croyant*, stating that in it, "through the impious abuse of the word of God, the people are corrupted, so that all bonds of public order are dissolved, both authorities are undermined, seditions are stirred up in kingdoms, tumults and rebellions are incited, fostered, and strengthened; the propositions contained therein are, therefore, false, calumnious, rash, leading to anarchy, contrary to the word of God, impious, scandalous, and erroneous, and have already been condemned by the Church, especially among the Waldensians, Wycliffites, Hussites, and other heretics of that kind."

II. It is customary for Roman Pontiffs, when condemning and prohibiting books, to also teach, indicating and reprobating the principal errors contained in such books. In condemning these five booklets, which were perniciously circulated throughout Germany, the Pontiff reprobated and condemned the following doctrine, as can be read therein: "All bishops, as successors of the Apostles, have received from Christ the same and supreme power to govern the Church, and this power does not reside solely in the Roman Pontiff, but in the entire episcopate; indeed, Christ willed that the Church be administered like a republic, so that all, not only of the lower clergy, but also the laity, may enjoy the right of suffrage; therefore, all power has been immediately granted to the entire body of the faithful, to the bishops and to the Roman Pontiff; in the present discipline of the Church, there are many things that are useless, and even dangerous and harmful, which, according to the circumstances of the times, ought to be changed; indulgences are nothing other than the remission of that part of the penance which was established by the canons for the sinner; they can be referred to the temporal penalties of divine justice, to be paid in this life or the next, or to be of benefit to the deceased, nor is this demonstrated in Scripture, nor from tradition; their use delays and perverts true repentance,

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and is entirely contrary to the spiritual benefit of the faithful; the treasure, made up of the merits of Christ and the satisfactions of the Saints, was unknown in ancient times, but was invented in recent times; the present discipline in administering the Sacrament of Penance in the Church is not only useless, but also pernicious, and detracts from the virtue and efficacy of this salutary institution; the law of celibacy tends to dishonor, disgrace, and detriment to the clergy, and is contrary to nature; the character, which is imprinted in ordination, is to be included among the opinions of the scholastics; and he who has once been a priest can be made a layman again, at least by the authority of the Church, by which the particular bishops are understood; and finally, they assert many things about the stipends for Masses, about their daily celebration, about more sacrifices for one and the same deceased, about private synaxes, about the sacred rites, about the cult of the Blessed Virgin Mary, about pious sodalities, about public supplications, which, individually, are shameful."

[*Latin ed. p. 738*]

APPENDIX art. 122 n. We condemn and reject [these works], and so that they may never again be held as belonging to the ranks of the approved, and that they may be forever deemed as condemned, we forbid [their publication]. We will and we decree. Finally, in the Breviary, as well as in the Breviary, on the day of August 5, 1843, and on the day of September 26, 1835, when the book was prohibited, the works of George Hermes, which were condemned, are inscribed under the heading: "Lettera sulla direzione degli studi di Francesco Forti, Ginevra 4813," which was prohibited, with the following clauses and penalties customary in the index of prohibited books: "as containing doctrines and assertions leading to skepticism and incredulity... heresy and the like."

To the Most Reverend Fathers, Patriarchs, etc., that they may remember the strict and severe judgment that the Supreme Pontiff will render, in accordance with the instruction, governance, and custody of the flock entrusted to them, not only to reject these books from schools, but also to turn their own sheep away from such harmful pastures with all care and solicitude.

Again, in the Breviary, the Melchite-Catholic synod, published on September 16, 1835, condemned a book from a certain synod of Antioch, held in the year 1806, which was printed in Arabic in the year 1810, and condemned it with these words: "The Synod of Antioch, and others, containing vices contrary to sound doctrine and the approved discipline of the Church, we... finally condemn the use of this book, in any language or in manuscript, or in print, as containing scandalous, rash, false, schismatic, injurious propositions to the Roman Pontiffs and the ecumenical councils, subversive of the authority, freedom, and jurisdiction of the Church, erroneous, impious, and heretical: and we condemn this book with these

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words: wherever and in whatever language, or as if a new edition or version, it has been printed up to now, or, may God forbid, it should be printed in the future, by virtue of the present condemnation, we condemn and reject it."

It remains to present examples of books which the Holy Father condemned through Apostolic Letters, first, so to speak, in the Breviary, which He gloriously fulfilled during His Pontificate.

By Apostolic Letters in the Breviary, published on June 10, 1851, the Holy Father condemned and prohibited the book entitled, "Defensa de la autoridad de los Gobernios y de los Obispos contra le pretenciones de la Curia Romana" by Francisco de Paula G. Vigil, Lima 4848.

[*Latin ed. p. 739*]

We condemn and declare anathema those who, by laws and decrees, derogate from the rights, and who undermine and corrupt the immensity and divine constitution of the Church; those who, through their writings, descriptions, and readings, promote schism, heresy, Protestantism, and its propagation; and those who, even with specific and individual mention, adhere to the condemned doctrines of Luther, Balthasar, Marsilius of Padua, John Lasco, Mark Anthony De Dominis, Richelieu, Laborde, and those of Pistoia, and others who have been equally condemned by the Church, and who, by this very act, incur the penalty of excommunication, without further declaration, and from whom no absolution can be obtained, except through the canonical form of absolution after death, and we absolutely forbid them from receiving any benefit, and we desire and command that they be considered and treated as condemned by all.

We, desiring and commanding by our Apostolic authority, decree that whoever possesses the aforementioned book or work, and to whom these present letters are made known, whether of any condition or rank, even if deserving of specific and individual mention, shall not dare to retain or read the aforementioned books and theses, but shall deliver them immediately to the Ordinaries of the place or to the Inquisitors of heretical depravity, under the penalties prescribed.

For the clergy, the penalty is suspension from divine offices; for the laity, the penalty is a greater excommunication, incurred by this very act, except as mentioned above regarding the canonical form of absolution after death.

We also command printers, booksellers, and all others, of whatever rank and dignity, that whenever the aforementioned books and theses come into their hands, they shall be obligated to deliver them to the respective Ordinaries, under the aforementioned penalties, namely, for the clergy, suspension from divine offices; for the laity, the greater excommunication mentioned above.

The same condemnation and prohibition are applied in the same man-

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ner as we have seen, as was used by Pope Innocent XII in the Brief "Ad Apostolicae," issued on August 22, 1851, in which the following work was condemned: "Institutiones Iuris Ecclesiastici" by John Neocomus, Professor in the Taurinense Athenaeum.

The following are read in "In Ius Ecclesiasticum Universum Tractationes" by the same author:

[*Latin ed. p. 740*]

APPENDIX III. 124. Furthermore, the aforementioned writings, as we have seen, are not limited to the *libri prohibiti* and theses, but include others, and for various reasons. Pope Gregory XVI, in a letter dated December 11, 1862, addressed to the Archbishop of Munich and Freising, condemned the works of the Lutheran Jacob Frobschammer, written in German, the titles of which, translated into Latin, are: *Introductio in philosophiam: De libertate scientiae: Athenaeum*, the first published in 1858, the second in 1861, and the third in 1862, by the printers of Munich.

If you wish to know the doctrine that the Pope condemned in the book, it is indicated in those same Apostolic Letters as follows: "The Church does not have the power to interfere, nor any temporal power, directly or indirectly: the division of the Church into the Eastern and Western [churches] was caused by the excessive arbitrariness of the Roman Pontiffs: the power of the episcopate is something other than a temporal attribute granted by the civil power, either expressly or tacitly, and can therefore be revoked at will by the civil power: the civil power can have an indirect negative power over sacred matters: the civil power, if it is harmed, can resort to a negative power over ecclesiastical matters; and it has the right, which they call 'execution,' but also the right to appeal from abuse: in conflicts between the laws of both powers, civil law prevails: nothing prevents a general council or the act of a people from transferring the supreme pontificate from the Roman Bishop and the City to another bishop and another state: a rational council cannot admit any other definition or discussion, and can demand civil administration to this extent; the doctrine that the Roman Pontiff is to be compared to a free prince and to act in all matters of the Church is a doctrine that prevailed in the Middle Ages, and whose effects still remain: the compatibility of the temporal kingdom with the spiritual is a matter of dispute among the children of the Christian and Catholic Church."

Furthermore, several false statements are made about marriage: "Christ could not have raised marriage to the dignity of a Sacrament for any reason: the Sacrament of marriage is nothing more than an accessory to a contract, separable from it, and the Sacrament itself is located in a single nuptial blessing: the bond of marriage is not, by natural law, an indissoluble bond: the Church does not have the power to introduce impediments to marriage, but it belongs to the civil power to remove existing impediments: matrimo-

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nial and betrothal causes belong by their very nature to the civil forum: the Church began to introduce impediments that dissolve marriages, not by its own right, but by the right that it borrowed from the civil power: the canons of the Council of Trent (Session 24, on marriage, chapter 4), which inflict anathemas on those who dare to deny the Church the power to introduce impediments, are either not dogmatic, or are to be understood as referring to this borrowed power."

Moreover, it is added: "The Tridentine form does not obligate under the penalty of invalidity where the civil law prescribes another form, and if, with this new form intervening, the marriage is valid: the vow of chastity made by Boniface VIII at ordination did not make the first marriage null."

Finally, several things are stated about episcopal power, about the penalties for heretics and schismatics, about the infallibility of the Roman Pontiff, and about councils, in these books, which, when considered individually and referred to in such a mass of errors, are quite tedious."

Here you have noted several propositions that the Supreme Father has approved in the famous syllabus that he published for the entire Church.

[*Latin ed. p. 741*]

APPENDIX III, 12D: Certain books have appeared, and with the same works, these vices, of which I have here indicated the principal ones, which Our Holy See has condemned; and We shall take care to place and remove them. By the fullness of Our power, the aforementioned Apostolic Letters have accustomed themselves to prohibit books, as the Presbyter Frohschammer indeed prohibited books or writings, not so much as containing propositions and doctrines expressly and specifically false, erroneous, injurious to the Church and to its authority and rights, which We condemn and reject, and which We wish to be rejected and condemned by all; and We command the same Congregation (Index) to refer the same books to the Index of prohibited books. Books were condemned in such a manner that We have seen that Gregory XVI used this method through Letters in the form of Breves, as indicated above, namely, without any explicit threat of excommunication, but only by way of a judgment, so that the books condemned are referred to the Index of condemned books. Likewise, Innocent XI, who, condemning Michael de Molinos as a formal heretic, prohibited all his books and writings under the penalty of reserved excommunication, without the books being designated by their own titles.

From what has been explained so far, it appears that books already prohibited by Apostolic Letters do not necessarily carry the same penalties, nor are all books prohibited in the same way; moreover, prohibitions are often made for personal reasons and circumstances.

Therefore, the question arises: Is a declaration of books made in this manner sufficient, so that they may be said to be specifically prohibited

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by Apostolic Letters? Or rather, is it necessary that the books be named by their own proper titles, as some believe, in order to be understood as included under Article II, concerning which we are speaking?

I answer: It is necessary that the books be named by their own proper titles, in order that they may be specifically understood as included.

[*Latin ed. p. 742*]

126 APPENDIX I. These are considered under the article concerning those things which, though not named, are signified by the presence of certain things. There are certain reasons for this, for example, that all the works of author A, or author B, or books which are opposed to this or that doctrine, or to this or that decree, etc., are included, even though they are not named by their own titles: and if, at times, this has not been the case, it is because the circumstances at the time required that some action be taken, so that some imminent harm might be prevented; for example, the danger of schism, which was the reason why Clement XI forbade in the aforementioned Brief all books, whether written or published, which were contrary to the Decree concerning the Removal of Archbishops of Sebasteni. The Constitution, in order that heresy may not prevail, or even be extinguished, is also the reason why the Popes of Rome, according to the circumstances, have forbidden all books of a certain heretic, as Innocent XI did with the books of Michael of Molinos. These, therefore, are extraordinary and usually temporary reasons: when these temporary circumstances cease, if the danger has been overcome, or if the schism or heresy has been suppressed, the law prevails, or the action has been rendered ineffective.

Furthermore, books which have been specifically forbidden by Apostolic Letters, are forbidden, either under pain of communicating with the Roman Pontiff, or under pain of excommunication, as the case may be. In law, words have a different meaning than that which they have in logic and philosophy: what philosophers call an individual, the ancient jurists called a species; what philosophers call a species, the jurists called a genus. Obvious examples are found in the Pandects. This legal way of speaking has also been derived into canon law. Therefore, the adverb "specialiter" in the Constitution of Martin V seems to derive from this legal meaning, which is the same as "individually," a meaning that has been confirmed by usage.

[*Latin ed. p. 743*]

127. Let the aforementioned Article II be considered, which is entirely concerned with restraining the censures imposed on prohibited books. Indeed, the Bulla *Coenae*, as we saw on page 66, prescribed the penalty of reserved excommunication for those knowingly reading heretical books. Some [heretical books] do not reserve this penalty to themselves; others are prohibited under no express censure. The question arises: whether all

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books explicitly prohibited by Apostolic Letters, by virtue of the second part of Article II, are subject to the same prohibition, under the penalty of a special reserved excommunication. I answer: only those books, explicitly prohibited by Apostolic Letters, appear to be included under the second part of Article II, which are already prohibited in Apostolic Letters under the penalty of excommunication reserved to the Roman Pontiff. This answer, at first glance, may seem less true; but considering the purpose of the Constitution, and the severity of the penalty; furthermore, considering the subject matter in question, everyone will easily recognize the value of this answer. Indeed, considering the purpose of the Constitution, which is to limit censures, it cannot be presumed that the words of the Constitution include books of any author explicitly prohibited by Apostolic Letters, under the most severe of its censures, those books which have long been prohibited by Apostolic Letters without any censure, or those books which have been prohibited under the censure of excommunication, but which the Roman Pontiffs have not considered it necessary to reserve within the very prohibition of books. This presumption, derived from the general purpose of the Constitution and the severity of the penalty, is further increased if we consider the books of heretics containing heresy or treating of religion: so that all books which were of heretics and dealt with religion, such as those on theology, on Holy Scripture, on moral matters; or which contained sermons and discourses on religion, and the like, were prohibited under reserved excommunication; likewise, all of those books were prohibited under the same penalty, even if they did not deal with religion, but contained heresy. Conversely, Article II reduces all of these to books of heretics advocating heresy. Furthermore, in the Index of Prohibited Books, excommunication, although not reserved, was extended to other cases as well. If, therefore, the entire article is intended to restrain such censures, this general presumption, derived from the purpose of the Constitution, is all the more increased in the question we are discussing. This presumption seems to be converted into a certain argument if we consider the title under which Article II is contained. For the title is: "Excommunications pronounced with a sentence, reserved in a special manner to the Roman Pontiff." Therefore, only those excommunications are included under this title, which were already reserved to the Roman Pontiff, and which pertain to a smaller number and lesser degrees.

[*Latin ed. p. 744*]

128 APPENDIX III. In the case of books condemned, they shall be administered according to a new method by the Roman Pontiff. Therefore, even excommunications reserved by Apostolic Letters are applied to specifically named prohibited books. This is confirmed, considering the subject matter involved; for we are dealing with books that have long been prohibited, which are not susceptible to a new, more severe censure, unless new rea-

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sons arise that suggest that the censure should be increased. For books that have long been prohibited either have fallen into oblivion, and therefore are no longer a danger to the faithful (I said to the faithful, not to any particular faithful; for the law is not concerned with what is difficult or rare to happen), and thus the law has achieved its purpose, and has achieved it in such a way that, were the books not already prohibited, the Legislator would not be intending to prohibit them now, let alone to increase their censure: in this sense, they are not susceptible to a new censure. Or, the books have not fallen into oblivion, as, for example, are the books prohibited in recent years by Apostolic Letters; indeed, these books have already been judged, with a particular judgment issued for each one, under a specific prohibition or censure, according to the merit of their doctrine and the circumstances of each book; therefore, if no new reasons arise that suggest that the censure should be increased, it cannot be presumed that the Legislator intends to increase the censure already imposed on each one. Thus, the words of the second part of Article II, which we are discussing, must be understood as referring to "books of any author specifically prohibited by Apostolic Letters under the penalty of excommunication, reserved to the Roman Pontiff." These words, both logically and grammatically, are consistent with the article: logically, they are consistent with the article that deals with the books of heretics, applying the censure only to those books that promote heresy; grammatically, they are consistent with the title of the article, expressed in the words "excommunications of a defined sentence, reserved in a special manner to the Roman Pontiff," so that the entire difficulty is reduced to a grammatical ambiguity that can easily be filled in. The Pontiff intended that the reserved excommunication remain in force for those who read books of heretics that only promote heresy, and the reserved excommunication for those who read books of any author prohibited by Apostolic Letters; this reservation, already established in his ordinary power, is now to be administered according to a new arrangement, and he intended to distinguish it from the common administration of reservations by the words "in a special manner." From the observations made so far, the following conclusions can be drawn: I. Books specifically prohibited by Apostolic Letters undergo no change in their censure by virtue of the Constitution. However, if, because of their own...

[*Latin ed. p. 745*]

129. The character of the works subject to censure were those condemned by excommunication, firmly condemned by the Rule, and those condemned by the Index. These latter, having lost all their defenses, remain prohibited, except for those which, by the Bull of Urban VIII, issued on March 6, 1641, are prohibited under pain of excommunication, remaining prohibited without any censure.

2. Books of the same kind, prohibited by Clement VIII under the penalty

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of suspension, although reserved, appear to remain prohibited without any censure to those who possess them.

3. The same books, specifically named, are prohibited under the penalty of excommunication, reserved, or this excommunication is consistent with that which is found in the Index of Prohibited Books, or whether it has been issued by Apostolic authority, specifically prohibiting the books. If they are prohibited only by Apostolic Letters, they remain prohibited without any censure.

4. Books which, in the future, are specifically prohibited by Apostolic Letters, if they are prohibited under the penalty of excommunication by the Roman Pontiff, are understood to be prohibited under this censure, even if they were previously reserved.

In presenting examples of books prohibited by Apostolic Letters, I began after the time of Alexander VII, for two reasons: first, because after that time, the Roman Pontiffs more frequently, and at least more distinctly, prohibited certain books by Apostolic Letters; and second, because Alexander VII reduced all previous penalties, whether by decrees or Apostolic Constitutions, to the penalties established by the Rules.

APPENDIX »f. (1) It is also fitting to mention here the Constitution of Sixtus V, *Caeli et Terrae*, issued on January 5, 1685, by which various forms of magic, which were prevalent at that time, were distinctly prohibited. These, except for a few accidental exceptions, are similar to the Spiritism of our time. In the narrative part of this Constitution, among other things, the following is read: "Others enter into a pact with death and make an agreement with hell..."

[*Latin ed. p. 746*]

APPENDIX, published by Pontifical authority for the sake of expediency, of which some are mentioned in the aforementioned Constitution of Urban VIII, *In eminenti*. However, Alexander VII reduced all such variations in penalties to those prescribed by the Index, preserving only those penalties which had been imposed by the Bull itself. Indeed, Alexander VII, in the Constitution *Speculatores*, published on March 5, 1614, renewed the Index of prohibited books in a new and more convenient form, and, presenting it as the authentic Index, decreed: "We command and urge that it be observed inviolably and without exception, under the penalties mentioned in the Constitution." Furthermore, remembering the decree of our predecessor, Pope Pius IV, concerning the confirmation of the Tridentine Index, and in order to abolish all the variations in the ancient Decrees concerning the penalties to be imposed, and for the sake of clarity, "we abolish all and each of the penalties imposed by previous Apostolic Constitutions and Decrees of this kind, except for those penalties which have been established in Apostolic Letters, customarily published on the feast of Corpus Domini, concerning authors and books condemned therein, with regard to which

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we intend to make no changes whatsoever, nor do we intend to allow any alteration." The Secretary of the Holy Congregation of the Index, in the preface to the Index of Prohibited Books published in the year 1841, noted among other things: "It should be noted that not only are the books subject to the penalty of excommunication prohibited, which are composed by heretics or which openly attack the Catholic religion and teach heresy, as is established by the Apostolic Letters read on the feast of Corpus Domini and the Constitution of Alexander VII, which begins *Speculatores*; but also that almost all such books are now prohibited by the penalty prescribed, which are indicated in Pontifical Briefs or Bulls published after the aforementioned Constitution of Alexander VII, published on March 5th of the year 1614, as can be understood from the aforementioned documents, to which we refer the reader." Therefore, if one were to ask, from what time should the Apostolic Letters be sought out, which specifically prohibit books, within the scope of Article II of which we are speaking? The answer is: after the pontificate of Alexander VII; who also, similarly, describes in detail those who, through occult divination, in order to find treasures, or for other wicked purposes, have made pacts with the devil, and who, through manifest instruments and sorcery, pervert souls, and who perform nefarious incantations of great art, invoke or consult demons, and who ask or receive answers from demons through circles and diabolical characters, etc." Furthermore, the Pope, confirming the prohibition of such magical arts, also confirmed the rule of the Index concerning these matters, along with the penalties established in the same Index, and also granted the Inquisitors the power to proceed with other appropriate penalties. I do not know by what means it happened that some authors, of not obscure names, are found in this Constitution to be subject to reserved excommunication; whereas Sixtus V imposed no excommunication.

[*Latin ed. p. 747*]

APPENDIX III. It is also possible to respond that the pontificate of Alexander VII, from the pontificate of Clement XI, from the beginning of the century, was marked by this, namely, that certain letters were issued, expressly condemning certain books under the penalty of excommunication. For all the Apostolic Letters issued before Alexander VII were, according to Clement XI, in accordance with the example given on page 117, reduced to the common law, or the Rules of the Index, and those examples, although incomplete, I believe are sufficient to demonstrate that, probably, they had not preceded the Bull of the Index.

Perhaps there are those who would seek to list the books expressly prohibited by Apostolic Letters.

On June 25, 1665, Alexander VII issued a Bull, "Cum ad aures," almost a year after the promulgation of his Constitution. This Bull concerns two books specifically mentioned, and while it sanctions them under the

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penalty of excommunication, it does not prohibit the reading of those books. Rather, it prohibits the approval of certain censures contained within those books, which were not made with competent authority, and whose doctrines had not been judged, disapproved, or admitted by the Holy See. Therefore, the prohibition is easily resolved into the condemnation of certain censures contained in these books.

These books bear the following titles:

First: "Censura sacrae facultatis theologicae Parisiensis in librum cui titulus est, La défense de l'authorité de N. S. P. le Pape, de nosseigneurs les Cardinaux, les Archevesques et Evesques et de l'employ de la religion de Mendians contre les erreurs de ce temps, par Jacque de Vernat à Mets 1658."

Second: "Censura sacrae facultatis theologicae Parisiensis in librum, cui titulus est, Amadei Örimensis Lomarensis, olim primarii sacrae theologiae professoris, opusculum singularia universae fere theologiae moralis complectens adversus quorundam expostulationes contra nonnullas Iesuitarum opiniones morales ad tractatus de peccatis, de opinione probabili, editum novissime etc. Lugduni... 1664, cum approbatione et superiorum permissu, Parisiis 1665."

In these books (the words of the Bull state), "presumptuous propositions are noted, and especially those which pertain to the authority of the Roman Pontiff and the Holy Apostolic See, the jurisdiction of Bishops, the office of Parochial priests, privileges granted by the Holy See, Apostolic dispensations, and the rule of moral actions, and others which are supported by the authority of the most serious writers and the constant practice of Catholics."

The sanction is imposed with these words: "We also command that no one... approve, follow, or defend the aforementioned censures, nor in public or private readings, discussions, sessions, or other public acts, follow, support, or teach them, nor in books or even writings public or private, or in any other way, quote them under the penalty of excommunication latae sententiae, which will be incurred by the very act, and whose absolution We reserve to Ourselves and the Apostolic See."

Such a Bull of Alexander VII was omitted from the Bullarium, entitled "Bullarii Romani ab Urbano VIII usque ad Clementem X Tomus V Lugduni 1678," and for this reason, this volume of the Bullarium was prohibited by the Decree of the Index of January 25, 1684, with the clause that it should remain prohibited until the Bull of Alexander VII, dated July 7, 1665, which begins "Cum ad aures," is included in it.

[*Latin ed. p. 748*]

132 APPENDIX III. Cases subject to reserved excommunication. For in the Index of Prohibited Books, the prohibited books are indeed listed, but the penalty under which they are prohibited is not indicated. I had in-

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deed intended to provide this information and had begun the work; and although I might not be able to provide a complete list, I hoped at least to provide a partial list, which others could then complete. However, as I began the work, I realized that I would not be producing a useful work. For there are many books that are prohibited under reserved excommunication, which have fallen into oblivion, and it would not be prudent to recall them to memory. There are others that were prohibited because of circumstances of time and place, which have long since ceased; and to revive these books would be superfluous. Moreover, when the pernicious influence of many corrupt books has ceased; and therefore the danger of perversion and damage has ceased, it seems that various books that were formerly prohibited are now in a condition in which the oldest books condemned by the Church are now found, namely, as monuments for understanding the history of ancient heresies and errors, without those who read them being subject to censure. These books will indeed remain condemned forever because of their errors; but since any danger of damage or perversion is long gone, they are no longer considered, at least by those engaged in ecclesiastical and scientific pursuits, to be prohibited. What formerly could only happen after a long interval of time, that books once condemned might be considered as historical monuments, can now, in our time, after the rapid invention of printing, by which books grow daily in immense numbers, and with the increase in the number of books, there is a corresponding increase in the levity of ideas, the change and transformation of errors; it is much easier for past books, condemned and censored, to become merely historical documents of those errors, which were prevalent for a time. Furthermore, although it is stated in law that a law ceases to be in effect when its proper purpose has ceased, it is nevertheless difficult to judge in each individual case whether the purpose of the law has adequately ceased (1). Those who believe that the positive law ceases to apply to them, and therefore violate the law, are mistaken: for they do not understand the saying: "when the proper purpose of the law ceases, the law itself ceases to be in effect"; or they confuse the positive law with natural law. The law is enacted for the entire community for a reasonable purpose that the legislator has set forth; and the same law is imposed upon the subjects as a measure; and therefore the subjects are bound by this measure or disposition; but they are not bound by the purpose intended by the legislator; hence I believe that the common saying has arisen: "the purpose of the law does not fall under the law."

[*Latin ed. p. 749*]

In 133 errors, with which the license to think and write freely is surrounded, the most steadfast strength of living authority, to which every faithful person should, without hesitation, fully submit their understanding. Indeed, the defenses established by the Church, either through the

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Index of Prohibited Books, or through the prohibition of publishing books without ecclesiastical permission, in order to restrain the license to write and the spread of corrupt books, have been overcome by the flood of books and periodicals. Before I conclude this discussion, it will not be out of place to address a certain difficulty that has arisen in my writings. In response to my inquiry, on page 9 in the notes, as to whether periodicals or newspapers that defend the heresy of those (apostates and heretics) are subject to censure (excommunication by the Roman Pontiff), we certainly have, from the law itself, that no one is subject to the penalty of prohibition if they read a prohibited book knowingly; but, considering the observation I have made, it is more useful that the memory of those books, which no longer appear to pose a danger, should be completely erased. And the Fathers of Trent, in their own time, seem to have done this when compiling the Index of Prohibited Books, as we saw in Rule I, page / / 3, with these words: "All books that have been condemned before by gold coins 45Ī5, or by the Supreme Pontiffs, or by ecumenical Councils, and which are not in this Index, are to be considered as condemned in the same way as they were condemned before." They, in fact, omitted the catalog of those books, although they renewed the sanctions. It is also evident in the age in which we live, how necessary it is, in so many and such increasing and varied circumstances. Therefore, when the purpose of a law ceases for some or for certain individuals, they are not thereby released from the disposition of the law, since they are not bound by the purpose of the law. But if the entire purpose of the law ceases to exist for the law itself, then the law no longer has its reason for existing: and therefore it ceases; and when the law ceases, so too does the bond of all those subject to it. In this sense, it is understood that when the proper purpose of the law ceases, the law itself ceases. St. Alphonsus, in chapter 5 of Appendix III, On Prohibited Books, rightly rejects the opinion of a certain Caramuel. The Saintly Doctor poses this question to himself: "It is asked: Can those who are morally certain that they will not incur any danger of perversion, read prohibited books without license?" Some, along with Caramuel (the "prince" of laxity), have thought that it is possible in that case, saying that when the proper purpose of the law ceases, the law of prohibition ceases. See with the most common opinion... absolutely, it must be denied. However, it must be noted that although the purpose of the law does not bind the subjects, but the disposition of the law; nevertheless, the purpose of the law, whether expressed in the law itself, or to be understood from elsewhere, should not be neglected by the interpreter: for it is the principal canon for understanding and explaining the law more fully: therefore, it is not well that some write or speak, saying: we must not be concerned about the purpose of the law. This is true, when the disposition of the law admits of no doubt, but the purpose of the law must be kept in mind in order to

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understand its intensive and extensive force, or its meaning more fully.

[*Latin ed. p. 750*]

134. APPENDIX III. Whether those things which are specially reserved (fici speciali modo reservatae) are prohibited? I replied: They do not seem to be prohibited by the Index. Some disputed this. St. Alphonsus, the practical Doctor of the Church, in the Appendix on prohibited books, which he added to Book 1, Tractate 2, on laws, wrote: "He who raises an objection to my opinion on this matter does not distinguish between prohibition and censure; and many fall into this confusion." He wrote in the Constitution, Apostolicae, in chapter 5, section 7: "Is one subject to excommunication if he reads a heretical discourse or a letter published separately? Some affirm this... but others deny it (the latter being much more numerous), because truly, such a discourse or letter cannot be called a book; and while it is proper to restrict the number of general censures, the other prohibitions or penalties, which are not censures, remain in the same state as they were before the Constitution. For it is known that, by the name of censures, are understood only major or minor excommunication, suspension, and interdict, according to the response of Innocent III." In this matter, they say that a strict interpretation must be applied, especially when dealing with something odious, as it is a penalty to be incurred. It is doubted 2°, whether those who read the manuscripts of heretics incur a censure? Azor denies this... but Holzmuller constantly affirms it, saying that manuscripts still fall under the name of books. In Innocent III, chapter 20, On the meaning of words, it is written: "To one who asks what should be understood by the term ecclesiastical censure, when we add such a clause in our letters, we reply that by it is understood not only the sentence of interdict, but also that of suspension and excommunication." Therefore, before the Constitution, the entire question was reduced to this: whether a discourse or letter, or manuscript books, fell under the name of books; and when dealing with a matter subject to penalty, a strict interpretation was to be applied. If these things were true at that time, much more so are they true in our age, in which the distinction between books and other writings which do not exhibit the form of books has been completely eliminated, among which are ephemerides or diaries, or sheets, whether these are larger or smaller: and it cannot be supposed that the Legislator ignored such common distinctions. The difficulty raised consisted in this, that there are ephemerides or diaries which contain a long writing, and it is not probable that ecclesiastical law concerns itself with the material form of books, which would be contrary to the spirit of the Church. To satisfy this objection, it is helpful to remember that even before the Constitution, among the approved books, there were...

[*Latin ed. p. 751*]

It is objected that the law of the Church concerns itself with the material

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form [of books], and this objection is ambiguous. For the Church does not prohibit books because of their material form, but because of the poison which is more abundantly and effectively spread through that form. Indeed, newspapers and pamphlets, the larger they are, are less often read; the more demanding they are of intellectual contemplation, the more they are neglected; they are read hastily, and then abandoned; for in them are sought only the news and opinions of the day, which flow and ebb, without being truly valued. On the contrary, books are esteemed and preserved, and they are not only read superficially, but are studied and contemplated, are published in various languages, and are widely cited, as if they were sources of wisdom. Furthermore, when it comes to penalties, unless the sentence of the law compels a strict interpretation of the words, the words are not to be extended beyond what they strictly express. In the present matter, the word "books," considered even with the entire structure of the article in question, is not to be understood in any other sense than that in which it is commonly used: for the same penalty is imposed on those who knowingly read books without the authority of the Apostolic See, books which promote the heresy of apostates and heretics, as on those who retain, print, and in any way distribute the same books; and these words, "retaining, printing, defending," are, just as in the case of newspapers, closely connected with the common understanding of the word "books." Therefore, it seems that newspapers or pamphlets of heretics, which by themselves completely (that is, which are not parts of books of the same subject; which question I omit) promote heresy, are not prohibited under that censure. Rather, the question may be asked, under what prohibition are they included? I answer: they are often prohibited by natural law, on account of the danger of perversion, in which case confessors, in particular, should warn their penitents that they cannot read such newspapers, since they expose themselves to the danger of perversion, or are gradually and imperceptibly perverted. The purchase of such newspapers may also be prohibited by natural law; for those who buy them without a reasonable cause that may excuse them, cooperate, although slightly, in the most wicked cause; for they are, through such a purchase, associates of the newspapers; for without purchasing associates, newspapers could not exist. Such newspapers may also be prohibited by a positive prohibition of the Ordinary; for it is the duty of the Ordinaries to prohibit the reading of such newspapers to their diocesans by a positive precept, if there is a danger of perversion, to which, if necessary, they may also add ecclesiastical censures. Or, at least, if by precept such wicked, whether heretical or non-heretical,

[*Latin ed. p. 752*]

136 APPENDIX III. Those who, by their very nature, are deemed to prohibit certain publications are obligated to declare that these prohibitions are established by the law of nature; therefore, the faithful are not permit-

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ted to read them. In such cases, confessors will judge which of the penitents may or may not read them, according to the danger that each faces of being led astray. Regarding the prohibition of books, pamphlets, and scandalous periodicals, which is to be enacted by the local Ordinaries, a recent circular letter has been sent to them by the Sacred Congregation of the Index. In this age in which we live, the Holy See cannot judge all the books that are submitted for examination, due to their great number; nor is it always expedient to do so, because it is not always advantageous to publicly denounce books or pamphlets, or periodicals, that are considered harmful in a particular city, diocese, or province, as this might rather increase their popularity. Therefore, the Holy See frequently urges the bishops to prohibit such books within their own dioceses; and from this prohibition, at least, some of the harmful publications are kept out of neighboring dioceses. The circular letter to which I refer is as follows:

"To Our Most Reverend and Venerable Brothers, Greetings. Among the many trials that afflict the Church of God in these sorrowful times, it is certainly necessary to mention the flood of wicked books that inundates almost the entire world, by which, through nefarious and depraved men, the divine Christian religion, which ought to be held in honor by all, is despised, good morals are utterly undermined, especially among the young, and the rights and order of social customs are distorted and in every way disturbed. And they do not strive only to accomplish this with books of great scientific learning, but also with small, inexpensive pamphlets, and through public and specially prepared periodicals, so that they may insinuate this poison not only to the uneducated and learned, but also to the faith and simplicity of the most unrefined and lowest people."

"But the legitimate pastors who watch over the flock of Christ strive to avert this ruin from the people, and they submit to the Sacred Congregation of the Index whatever books they deem harmful, diligently working to deter the faithful from reading such things through the judgment and prohibition of the Roman See. And the Holy Congregation has not found this difficult, and does not find it difficult, for it devotes daily effort and study to fulfill the duty demanded of it by the Roman Pontiffs. However, because the denunciations of harmful publications are constantly increasing from all over the Christian world, it is not always possible to render a prompt and expeditious judgment on every case."

[*Latin ed. p. 753*]

APPENDIX 1: "Thus it happens that sometimes the remedy is provided too late, and proves ineffective, when already, through the reading of these books, enormous damage has been caused. To avert this inconvenience, the Roman Pontiffs have not infrequently looked into the matter, and, without mentioning the examples of other ages, in our own time, by the mandate of His Holiness Leo XII, issued on March 26, 1825, and inserted at the end

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of the *Index*, and attached to these letters (1), it is commanded that Ordinaries of the places should strive, with their own authority, to prohibit and remove from the hands of the faithful all books published or disseminated in their diocese that are harmful. Since this Apostolic mandate, through its prudent constitution, perfectly responds to the present needs of the faithful, and to the safeguarding of doctrine and morals, it has pleased His Holiness Pope Pius IX that its memory be recalled, its content be made known again, and that its observance be demanded by the Ordinaries of the places, which we, through these exhortatory letters, diligently undertake in the name and with the authority of the Apostolic See. If due obedience is given to this (as we are certain it will be), then the gravest evils will be removed, especially in those dioceses in which the need for prompt suppression is pressing. Lest anyone, under the pretext of a lack of jurisdiction, or under some other pretext, dare to disregard or consider invalid the judgments and prohibitions of the Ordinaries, His Holiness has granted, as is granted by the Name and Authority of His Holiness in the present document, that in this matter, they may proceed even as Delegates of the Apostolic See, notwithstanding any contrary provisions. To the Apostolic judgment should be referred those works or writings that require a deeper examination, or in which the opinion of the Supreme Authority is required to achieve a salutary effect. In the meantime, We pray that you, Most Reverend Lords, may receive an abundant increase of divine graces, and that you may be most ready to offer us all due services. Given in Rome, this 24th day of August, 1864. Therefore, by virtue of this letter, the Ordinaries of the places can, concerning books: (1) A mandate added by Leo XII to Decree 8 of the Congregation of the Index, dated March 26, 1825. "His Holiness commanded that all Patriarchs, Archbishops, Bishops, and others entrusted with the governance of the Church, should recall what was established by the Sacred Synods of Trent in the *Index of Prohibited Books*, and in the observations, instructions, additions, and general decrees of the Supreme Pontiffs Clement VIII, Alexander VII, and Benedict XIV, for the purpose of prohibiting and abolishing harmful books, so that, since it is utterly impossible to refer all the books that are constantly being published to the *Index*, they should strive, with their own authority, to remove such books from the hands of the faithful, and to teach the faithful themselves what kind of food is wholesome, and what should be considered harmful and deadly, so that they may not take anything in this matter that is contrary to faith, and may not be corrupted by heresy."

[*Latin ed. p. 754*]

APPENDIX III. The prohibition [of certain books] proceeds not only from proper law, but also as a delegate of the Apostolic See. It is understood that those who perhaps believe themselves burdened by the prohibition of the Ordinary, have recourse to the Holy See through appeal: for an appeal

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from the judgment of a delegate is made to the one who delegates.

"The propagation of [good] arts," it is stated, "when turned to the contrary, harms the salvation of the faithful." Therefore, we have deemed it necessary to take care of the matter concerning the printing of books, so that from now on, they may not be mixed with bad seeds or with medicines of a harmful nature.

Therefore, wishing to provide a remedy for this matter concerning the printing of books on sacred subjects without the approval of the Ordinary, and also concerning the printing of other books, so that the former may prosper more happily, and that the latter may be investigated more diligently and cautiously, we decree and ordain that, from now on, and for all time, no one shall print or cause to be printed any book or other writing, whether in the edition and use of the Sacred Books, or in any other matter, in our city, or in any other cities or dioceses, unless those who print or cause to be printed such books first obtain permission from our Vicarius and the Prefect of the Sacred Palace; in other cities and dioceses, from the Bishop or another person having expertise in the matter of such books or writings.

The Bishop, or the aforementioned person, shall be appointed by the Bishop for this purpose. In cities or dioceses in which the printing of such books is carried out, diligent examination shall be made by them, and, by their own hand, they shall approve them, under the penalty of excommunication, freely and without delay.

Page 34, with these words: "excepta anathematis poena in Decreto sess. IV De iudicijs et fidei augmentum ac bonarum operum."

But whoever presumes to act otherwise,

[*Latin ed. p. 755*]

APPENDIX III. 139 Concerning those who publish books without permission. For the Trident Synod, acting in the matter of the public condemnation of such individuals and the confiscation of one hundred ducats from the Basilica of the Prince of the Apostles in Rome, without hope of remission or restitution, and the continuous suspension of their printing privileges, decreed that such a sentence should be imposed; and finally, with grave persistence, such individuals are pursued by the Bishop or our Vicar, and are punished with the penalties prescribed by law. Furthermore, those who, in this matter, should, as is fitting, impose similar restrictions, are warned not to attempt anything similar, since they already believe that they are free to do whatever they please without the permission of their superiors.

The Trident Synod, which followed shortly thereafter, in session 4, partially amended this Constitution.

It is decreed and established that those who, without authorization, print sacred books, and on them print annotations and expositions of any

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upon kind, often silently, often even openly, and, what is more, without mentioning the author's name (1), or who have for sale printed books of this kind, are to be punished after due process.

This first Constitution, with its penalties, was not, from the beginning, generally accepted in practice, as Suarez states in *De censur.*, disput. 23, sect. 7, with Cajetan, *verb. Excomm.*, at the end; Navarro, cap. 27, nos. 40 and 448; Toledo, I, 4, c. 40, at the end.

(1) At the time of the Council of Trent, the omission of the author's name on the title page of a book was still considered a serious offense, according to the old custom. Before the invention of printing, books without the author's name were at least suspected; and in the early centuries of the Church, books written without the author's name were easily classified as apocryphal by the Roman See, just as books, otherwise harmless, were classified as apocryphal if they were circulated under the false name of some famous person: examples of this can be seen in the aforementioned Decree of Gelasius. For example, among the works that the Roman Church accepted were the *gesta* of the saints and martyrs; but the same Decree adds this clause: "but for this reason, according to ancient custom, they are not read in the Holy Roman Church, because the names of those who wrote them are completely unknown, and because they are considered to contain things that are superfluous or less appropriate than the order of things would have it, such as the writings of Cyricus and Iulitta; and the passions of George, and others of this kind, which are attributed to heretics. Therefore, so that no opportunity for even a slight correction might arise, they are not read in the Holy Roman Church." Similarly, the Decree of Gelasius classifies as apocryphal the well-known book called the *Canons of the Apostles*; certainly, primarily for the reason that it was circulated under the false name of the Apostles: although, as critics believe, the book contains, at least in substance, discipline drawn from the Apostolic tradition.

[*Latin ed. p. 756*]

140 APPENDIX III. "Moreover, this very edition of the Vulgate, which is to be printed with the utmost care, and to which no one is permitted to print, or to have printed, any books whatsoever concerning sacred matters, without the name of the author; nor may these be sold in the future, or even kept by themselves, unless they have first been examined and approved by the Ordinary, under the penalty of excommunication and a fine, as stated in the canon of the most recent Council of the Lateran Palace." This fine was one hundred ducats, as we have seen. But, by a more important reason, this Constitution of Leo X was amended or explained by Rule X of the Indicies. Indeed, in this Rule, the following were established: "It is to be observed in the printing of books, and other writings, what was established in the Council of the Lateran, under Leo X, session X." Therefore, if any book is to

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be printed in the venerable City of Rome, it must first be examined by the Vicar of the Supreme Pontiff and the Master of the Sacred Palace, or by persons appointed by the Most Holy Lord, before it is printed. In other places, a person must be appointed by the Bishop, or someone having knowledge of books, to examine the books or writings to be printed, and the Inquisitor of heretical depravity of that city or diocese, to whom the approval and examination of the printing pertains, and by whose hand, with their own signature, the book must be permitted to be printed, freely and without delay, under the penalties and censures contained in the same decree, after it has been approved; and this law and condition must be added, that a copy of the printed book, authenticated and signed by the hand of the author, must remain with the examiner. Those who publish handwritten pamphlets, unless they have first been examined and approved, are to be subjected to the same penalties as printers, according to the judgment of the Fathers deputed; and those who have them and keep them, unless they reveal the authors, are to be considered as authors. The approval of such books must be given in writing, and must appear authentically on the front of the book or writing, or printed matter; and the approval and examination, and all other matters, must be done freely. Furthermore, in each city and diocese, houses or places where the printing art is practiced, and bookshops where books are sold, must be frequently visited by persons appointed for this purpose by the Bishop, or his Vicar, and also by the Inquisitor of heretical depravity, so that nothing that is prohibited may be printed, sold, or kept. All booksellers, and all those who sell books, must have in their shops an Index of the books for sale that they have, with the signature of the aforementioned persons; and they must not have or sell, or in any way give, any other books without the license of these appointed persons, under the penalty of the confiscation of the books and other penalties to be imposed at the discretion of the Bishops or Inquisitors: and the buyers and readers...

[*Latin ed. p. 757*]

APPENDIX III. Those who, by their own authority, "punish" others. If any books are introduced into a certain city, those individuals shall be obligated to declare this to the designated authorities, or, if a public market for such goods exists, the public officials of that place shall inform the aforementioned authorities that books have been brought in. No one shall dare to give or lend to anyone, or in any way alienate or loan, a book which he or another has introduced into the city, unless he first shows the book and obtains permission from the designated authorities, or unless it is clearly known that the book has already been made available to everyone. The same shall also be observed by executors and administrators of last wills, so that they present to the designated authorities the books left by the deceased, or their index, and obtain permission from them before using

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them or transferring them to other individuals in any way. In all and each of these matters, a penalty shall be established, either the confiscation of the books or another penalty at the discretion of the Bishops or Inquisitors, according to the nature of the offense or transgression. Concerning those books which have been examined or approved, or ordered to be purged, or granted permission to be reprinted under certain conditions, by the designated authorities, whatever they may have determined, both booksellers and others shall observe it. However, it shall be permissible for Bishops or Inquisitors-General, according to their authority, to prohibit even those books which seem to be permitted by these Regulations, if they judge it expedient to do so in their kingdoms, provinces, or dioceses.

Urban VIII, by a Decree of the Holy Inquisition published on October 3, 1625, established the following for those living in the ecclesiastical state, whether directly or indirectly subject to the Holy See:

"Our Most Holy Lord, desiring to fulfill his pastoral duty and to correct certain abuses existing in the ecclesiastical state, whether directly or indirectly subject to the Apostolic See, concerning those who send books composed by them outside of the aforementioned state, without the approval of the local Ordinaries and Inquisitors, where they reside; he has decreed that, in the future, no one living in the aforementioned state, of any condition, rank, order, or dignity, shall dare to send or take books of any subject matter, composed anywhere, to be printed, without the express written approval of His Most Holy and Reverend Lord Cardinal, His Vicar and Prefect of the Sacred Palace, if in the city of Rome; and if outside of Rome, without the authority and permission of the local Ordinary and Inquisitor, or of those appointed by them, to undertake this work."

[*Latin ed. p. 758*]

142 APPENDIX III. Regarding the books which, contrary to the tenor of the Decree, have been printed, besides the other penalties which may be imposed at the will of His Holiness, from this time forward, without any further declaration, they are prohibited, and are to be considered expressly prohibited, and it is commanded. This same disposition of Urban VIII, except for the sanction, was renewed by Alexander VII through Observations which he ordered to be added to Rule X of the Indices, with these words: "It is to be observed concerning Rule X of the Indices, that those residing in the State of the Apostolic See, whether immediately subject or not, cannot transmit books composed by them for printing elsewhere, without express written approval from His Most Eminent and Reverend Lord Cardinals, Vicars and Masters of the Sacred Palace, if they are in the City; but if they are outside the City, without the Ordinary of that place, or from those deputed by them, with the authority and license to carry out the work." Then Clement VIII issued an Instruction, which is usually placed before the Indices of Prohibited Books, in which he established rules for those who are

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to diligently and faithfully attend to the prohibiting, expurgating, and even printing of books. From the very Decree of Urban VIII, it can be argued that the Lateranense Constitution of Leo X, even after the renewal made through Rule X of the Indices, had already been neglected to some extent. For it appears that outside the Pontifical State, it had not been observed in all places. Finally, His Holiness gave an encyclical letter on June 2, 1848, to Bishops and others who are in charge of the canonical censorship of books within the temporal jurisdiction of the Holy See; in it, He tempered some things from the old law. For He established: "In Session X of the Lateran Council V, and again in the last of the Rules of the Indices, which were written by the Fathers deputed by the Council of Trent, and approved by our predecessor, Pope Pius IV of glorious memory, and also in other sanctions of other Roman Pontiffs, it is decreed that no books or writings whatsoever shall be published, unless they have previously been examined and approved by ecclesiastical authority." Indeed, the eagerness to write and read, and the number of books, especially periodicals, is increasing daily in our age, so that it is becoming increasingly difficult for ecclesiastical censors to examine them all with due diligence, and thus a wider path is opened for those who seek to spread perverse doctrines and things harmful to the public good through pamphlets and, especially, small books secretly published, the impropriety of which causes even greater offense and scandal to the faithful, and which, although they are considered to have passed through the channels of existing canons, are rightly approved.

[*Latin ed. p. 759*]

43. No ephemeral publications or books of any kind whatsoever shall be published without prior ecclesiastical censorship, whether they treat of moral or religious matters, as We have stated; in other cases, only those articles which contain similar arguments, or which touch closely upon the cause of religion or of honest morals.

Furthermore, by virtue of this Our permission, no one shall ever be permitted to republish, or to publish in any other language, those books and writings which have been condemned and prohibited by previous decrees of ecclesiastical authority, or which will be prohibited in the future. If anyone should again publish or disseminate writings or books of this kind, or in any other way violate the aforementioned canons and the sacred sanctions of this Holy See in matters not covered by these Our letters, they shall be subject to the same censures and penalties that were established by the aforementioned previous sanctions. For We intend that these same sanctions shall remain firm in all respects in which We have not derogated from them, and We reaffirm them with Our Apostolic authority.

We also confirm the monetary penalty mentioned in the aforementioned decree of the Council of Lateran V; which, however, We mitigate to such an extent that, even in the most serious cases, the sum shall be one hundred

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solidi of the common Roman currency.

Having seriously considered these matters, and after consulting with several of Our Most Reverend Brothers, Cardinals, and having before Our eyes the decree of the fourth session of the Council of Trent, where special sanctions are read concerning the publication and dissemination of books on sacred matters, We have decided to mitigate, in part, some of the aforementioned regulations, so that ecclesiastical censors may more diligently fulfill their office, with stricter limits defined, lest it easily happen that those things which have been approved, at least in part, by their censorship, are fraudulently altered, or have not been carefully examined by them.

Therefore, by Our own motion and with Our Apostolic authority, We decree and permit that, henceforth, and until otherwise determined by this Apostolic See, ecclesiastical censors in places subject to Our temporal jurisdiction shall be concerned only with those matters which pertain to the Divine Scriptures, Sacred Theology, Ecclesiastical History, Canon Law, Natural Theology, Ethics, and other similar religious or moral disciplines, and generally with all matters in which religion or honest morals are specifically involved.

In accordance with the foregoing, We have decided and permit that, in all cases,

[*Latin ed. p. 760*]

144 APPENDIX IH. r) non excedat: and We command that the same be distributed to the faithful according to the prudent judgment of each Bishop.

Although this mitigation of the law concerns Bishops and others existing within the temporal jurisdiction of the Holy Pontiff, everyone easily understands that, in other places, a greater allowance may also be adapted, since the condition of other jurisdictions is not always more favorable, with regard to the unrestrained publication of books and ephemeral writings, than that of the Roman States. Furthermore, the severe penalties, incurred by the very act and confirmed in this Constitution, have now ceased to have force by virtue of the Apostolic Constitution, and only that penalty remains which was imposed by the Council of Trent, which has also been mitigated; for it applies only to those who, treating of sacred matters, print or cause to be printed books without the approval of the Ordinary: and this penalty is reserved to none. Another objection was raised to me concerning what I had noted on page 35. There, I had inquired: which books are to be understood as treating of sacred matters? And I replied: by the term "books treating of sacred matters," are to be understood those which the Council of Trent, in session IV, concerning the edition and use of sacred books, understood; that is, the books of Holy Scripture, and the annotations and expositions of those same books. This response was drawn from the context of the Tridentine Decree. The objection, however, was conveyed to

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me in these words: "Indeed, at first glance, that response, taken exclusively, seems to conform to the Tridentine context; but yet, in the same context, the Lateran Constitution is expressly cited; and in the Lateran Constitution, the matter is of any book printed without the approval of the Ordinary. Hence, he who raised this objection asked me to respond to these two formulas of doubt: 1° Is the author of religious works bound to submit his book to the approval of the Ordinary? 2° Is the same author bound by the same obligation in the case of profane works? After what I have written above, the answer is easy to give. In presenting such an objection, the usual confusion is committed between the sanction, or penalty, of excommunication, of which the Constitution speaks, and other obligations to be derived from elsewhere. I had not inquired on page 35, which writings, in general, must be submitted to the Ordinary for approval so that they may be lawfully printed and published; but rather, which books cannot be printed without incurring the excommunication of which the Constitution speaks, in the aforementioned passage. The Constitution determined the books which it had determined, that is, the books of sacred matters.

[*Latin ed. p. 761*]

APPENDIX III. concerning those [writings]; and the penalty of anathema, which the Council of Trent imposed upon those who printed, or caused to be printed, books concerning sacred matters without the name of the author, or without examination and approval; those who printed, caused to be printed, sold, retained, communicated in writing, or disseminated such books, were restrained from printing and causing to be printed such books without the approval of the Ordinary. It is not obscurely understood from the Tridentine Decree what books are to be considered as "those concerning sacred matters": for it is understood from the title of the Decree, which expressly indicates that it concerns the publication and use of sacred books; and sacred books, without hesitation, are the sacred Scriptures. It is well known among canonists that the titles of laws, which the legislator appends, also have the force of law; hence, in the interpretation of laws, it is often said: "The black explains the red, or conversely, the red explains the black." This is also understood from the end of the Decree. For the license of printers had prevailed, who thought they were free to do whatever they pleased, and who spared not even the books of the sacred Scriptures, printing them indifferently, with annotations and expositions of all kinds, often with a silent, and sometimes even a blatant, challenge, and what is more serious, without the name of the author, at a time when heresy was flourishing, which sought to find a refuge for errors precisely in the books of the sacred Scriptures through individual and arbitrary interpretations. Therefore, in order to impose some restraint upon printers, and therefore, as far as possible, to preserve that which the holy Council had defined and decreed with so much labor

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and wisdom, it was decreed that henceforth the sacred Scriptures, and especially this very edition of the Vulgate, should be printed with the utmost care, and that no one should be allowed to print or cause to be printed any books concerning sacred matters without the name of the author, etc. Therefore, considering the end of the Decree, sacred matters are nothing other than matters concerning the sacred Scriptures. This is also understood from the disposition of the Decree. It is decreed therein that those who distort the sacred Scriptures to their own senses, contrary to the sense held by the holy Mother Church, or contrary to the unanimous consent of the Fathers, should be declared and punished by the Ordinaries with the penalties established by law. Having established this for such individuals, the Holy Council turns to the printers, lest those individuals escape the penalties established by law through the printing of such books without the name of the author. Therefore, the Holy Council immediately proceeds: "but also to the printers, in their part, as is fitting," etc., and in the same context expressly mentions the books of the sacred Scriptures, and the annotations and expositions made upon them. In whatever way you consider the matter, books concerning sacred matters are, according to the Tridentine Council, nothing other than books treating of the sacred Scriptures. To this is added an external canon: 10.

[*Latin ed. p. 762*]

146 APPENDIX III. When it is a question of strictly enforcing the interpretation, it must be understood that those who cause books to be printed are not always those who have sold their writings or otherwise alienated them; rather, it is the printers or those who cause the books to be printed who are bound by a single obligation.

2° This universal ecclesiastical obligation burdens printers or those who cause books to be printed in places where at least the Constitution issued by the Most Holy Father on June 2, 1848, has been put into effect by the local Ordinaries: for it is a matter of an ecclesiastical obligation that demands a particular duty from the Ordinaries, and with the cessation of that duty, the obligation itself ceases.

3° As for books on secular matters, that is, books which are not of a moral or religious nature, according to the aforementioned Constitution, this obligation ceases: however, this obligation does not cease if the matter concerns places outside the jurisdiction of the Holy See, in which the Tenth General Rule may still be in force.

4° The decree of Urban VIII, which imposed the obligation on authors to send their books to be printed to another, without the approval of their own Ordinary, can be easily ascertained from the documents presented: I. This obligation does not burden the authors of books, but rather the printers or those who cause the books to be printed; therefore, if an author, for example, obtains permission to print a book from the Reverend Master S. P. A.,

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and then sends it to be printed elsewhere, he may add substantial changes that might not have escaped censure; but when the book is printed with the aforementioned permission, matters that would seem to be worthy of censure appear to have been permitted by the Reverend Master S. P. A. Thus it happens that the same Master will not grant permission to print books outside the city; but to books printed in Rome, he grants his permission; however, after they have been printed, they cannot be published unless he adds another decree; which he does immediately, upon recognizing the identity of the book. The care of these matters belongs to the printers.

(1) The reason why this decree has fallen into disuse, even in places where the general ecclesiastical law is otherwise observed, is this: when bad faith in the printing of books has greatly increased, it is easily possible that, for example, someone living in Rome will obtain permission to print a book from the Reverend Master S. P. A., and then, while sending it to be printed elsewhere, he will add substantial changes that might not have escaped censure; but when the book is printed with the aforementioned permission, matters that would seem to be worthy of censure appear to have been permitted by the Reverend Master S. P. A. Thus it happens that the same Master will not grant permission to print books outside the city; but to books printed in Rome, he grants his permission; however, after they have been printed, they cannot be published unless he adds another decree; which he does immediately, upon recognizing the identity of the book. The care of these matters belongs to the printers.

[*Latin ed. p. 763*]

It must be answered that the matter is doubtful: namely, whether an author concerning religious matters is obliged to submit his book for the approval of the Ordinary, if he himself causes the book to be printed, and if he is in a place where, according to the law, the Ordinary is empowered to enforce such approval. As for an author concerning secular matters, which are not of moral import, he is not obliged, except in a place where Rule X of the Index is in full force. Furthermore, men of scrupulous conscience seek a practical rule by which they may conduct themselves in buying and reading books; and confessors seek the same rule for their penitents. For many books are circulated which do not bear the printed approval of the Church; nor do all know whether books are under the censure of excommunication, that is, whether they are of heretics and promote heresy, or whether they have been specifically prohibited by Apostolic letters; whether, without a censure, they are listed in the Index of Prohibited Books; whether they are included under any rule of the Index; whether they are prohibited by natural law, that is, whether they are harmful; or, conversely, whether they are harmless. I answer: Men of scrupulous conscience already have a practical rule established by the Church universally: they have confessors. Therefore, the Sacred Congregation of the Inquisition, consulted in 1832 by

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the Bishops of Helvetiae concerning certain matters of this kind, regarding the question: "Can the faithful, without offending their conscience, read periodicals or books which have not undergone the censorship of the Ordinary?" answered: "They should consult their confessors." What rule, however, confessors should have in this matter, is indicated by St. Alphonsus, in the appendix to the book on prohibited books, chapter 5, paragraph 8, with these words: "In this matter, it is advisable to follow the stricter opinions. If the Catholic Church were not subjected to the tyranny of governments, but everywhere, as is fitting, exercised its authority as a judge of sound doctrine; and if it could therefore enforce the ecclesiastical laws established in this matter, books of dubious origin, which wander far and wide without bearing the printed approval of the Church, should be regarded with great suspicion: therefore, men of scrupulous conscience should abstain from buying and reading such books, without consulting a confessor, out of presumption concerning sound doctrine and out of reverence due to the Church: such books should be regarded as spurious and apocryphal, according to the old way of speaking. What the Church has not recognized, the faithful should not admit." But since the freedom to print books and periodicals, promoted above all by governments, has increased to the point that almost every restraint of ecclesiastical law has been removed, and bad or prohibited books are widely circulated along with good or harmless ones, it will be useful for confessors to know who the printers are who have published them: for often the printers are known, who...

[*Latin ed. p. 764*]

148 APPENDIX III. Concerning the sale of books for profit: those who have not sold their own books, diaries, summaries, pamphlets, or collections, in which are contained concessions that have been published without the permission of the Holy See; also, those who have been authors of books; for authors of sound doctrine are generally known; it will also be useful to know the judgment which sound and learned men have expressed in reviews of books that have been published, and many others. And in each diocese, there may be indications that, when properly considered, can direct the prudence of confessors, in order that they may refer to the Ordinary those books which do not merit being preferred for purchase or reading, which do not have ecclesiastical approval.

ON PROPOSITIONS CONDEMNED BY THE HOLY SEE.

From all that has been said above, it can be gathered, according to ecclesiastical laws, that there are three classes of books to be distinguished:

1. Books prohibited under the penalty of excommunication, reserved to the special judgment of the Roman Pontiff.

2. Books prohibited under the penalty of censure, according to the laws

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regarding prohibited books, and those books or writings that are forbidden by natural law; and also books that are prohibited by Bishops in their respective dioceses.

3. Books that, according to the ancient meaning of the term, might be called apocryphal: that is, books which the Church rejects in both ways, without any sanction of penalty, as are the books concerning sacred matters that have been printed without a license. To this class can be referred, for example, books of Indulgences that are condemned.

It is expedient to carefully note the distinction between heretical propositions and propositions of a minor, or censured, nature, among which are often found propositions that are condemned under the penalty of excommunication, according to the judgment of the Holy See, article I, page 16.

For a fuller understanding of the relationship that condemned propositions have with heretical doctrine, and to understand the distinction between propositions of a heretical nature and propositions that are merely censured, it is necessary to refer to the Ordinary, to whom books of apocryphal nature are often referred for censure or annotation, among which are often found propositions that are condemned under the penalty of excommunication.

[*Latin ed. p. 765*]

APP.! N. IX, namely, the doctrine of theologians, and I select what the most illustrious theologian, John Baptist Franzelin, recently wrote in his work on Divine Tradition, where, after thesis XII, on page 140, he added two *Scholia*, and, concerning the object of authentic magisterium, he presented these principles and corollaries, which abundantly illustrate the nature and intrinsic value of the condemned propositions.

Principle 2: In the strictest sense, the deposit of the Christian faith comprises all and only those things which have been revealed to the human race by God, either explicitly or implicitly, to be believed, practiced, and followed; or which have been manifested through the Catholic revelation (to distinguish them from private divine revelations) for the eternal salvation of the human race.

Corollary a: Objective truths can be contained within the deposit of faith, which have not yet been sufficiently proposed so that all are obliged to believe them with divine faith as if they were revealed.

Principle 3: Connected with and referring to revealed truths, and sufficiently proposed, are many things without which those revealed truths themselves could not be, or could not be as well, preserved, explained, defended, even if those things are not simply revealed, or are not yet sufficiently proposed for divine faith.

Such things are many, both theoretical and practical, in that threefold

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order which we indicated, namely, dogmatic, moral, and (so to speak) constitutive, such as the theologically certain truths concerning the procession of the Holy Spirit, which are contained in theoretical doctrines (and among these, even truths, such as those concerning the natural sanctification of humanity through love, insofar as they are knowable by reason, and which are said to pertain to religion); then in practical laws (and through created gifts, such as the vision of God, in which the natural law is also written in the beatifying experience from the very first moment of the human reason using its faculties); then in fundamental adjuncts, such as the Church, its certain powers connected with the truths, its form of government, etc.; revealed, when these practical things are applied, e.g., if one asks about the genuine sense of certain texts in the determined books.

Corollary b: Only those truths which are revealed by God, when they are sufficiently proposed, can and ought to be believed by divine faith from themselves; because this is the sense of the divine authority. Historical facts, e.g., the legitimate celebration of a particular Council, etc.; furthermore, certain special dispositions of divine providence for the better state and governance of the Church.

Corollary c: In the deposit of faith...

[*Latin ed. p. 766*]

APPENDIX III. 150 articles pertaining to the Church, e.g., heresy alone, but also the root if inquiry is made about the opportunism or all heresies. Moral necessity of political independence and temporal dominion are contained herein, and immediately follow, in relation to the infallibility of the Pontiff under the obligation of the guardianship of the Church, etc. This obligation extends to the entire amplitude of the deposit.

Corollary a). The deposit is not only violated by the negation of revealed truth and heresy, to the extent that it is heresy itself; but it can also be attacked and exposed to dangers in the minds of the faithful through errors against truths that are not revealed in themselves, but are nonetheless connected with revealed truths, and therefore theological or religious.

Corollary b). Although the strict definition of the deposit of faith does not include anything except revealed truths, nevertheless, the deposit to be guarded, with all its amplitude, its defenses, and its modes of application, extends more broadly: "O Timothy, guard the deposit; avoiding profane novelties" (1 Timothy 6:2).

Principle 4. To him to whom the task has been entrusted by Christ of infallibly guarding the deposit and defending it against encroaching errors, his infallible authority, under the promised assistance of the Holy Spirit, pertains primarily to guarding, proposing, and explaining those truths which, in the strict sense, constitute the very deposit of faith, namely, the revealed truths, and therefore to preventing errors directly opposed to

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these, or to condemning heresies. This is a revealed fundamental dogma of the Catholic faith; and from this, its negation cannot be...

Corollary a). Not only revealed truths, but also truths connected with the revealed truth, to the extent that they refer to the revealed truth, can be defined as infallible by the infallible magisterium; and for the same reason, not only heresies can be condemned, but also lesser censures can be imposed with infallible authority under the assistance of the Spirit of Truth. Therefore, if a doctrine is not defined as being revealed in itself, or if errors are not individually condemned, which are marks of heresy; but rather, for reasons pertaining to themselves, are not subject to any determined censure, or are subject to lesser censures, or are proscribed in a general manner with several censures: it cannot be affirmed, without serious error, that...

[*Latin ed. p. 767*]

APPENDIX m. concerning pronouncements from the magisterium. 151. It is understood that – an opinion (regarding the infusion of grace and virtues in infants) – is considered to be the most probable, and therefore should be chosen.

b) Dogmatic constitutions, such as those of the Council of Constance against the articles of Wycliffe and John Hus, confirmed by Martin V; of Leo X against Luther, *Exsurge*; of Clement XI against the Jansenists, *Unigenitus*, etc., in which, under various censures, propositions are condemned as a whole, and also the Constitution of Pius VI, which, although it does not explicitly define truth, is nevertheless considered to be of greater probability (cf. de Lugo, I, c. n. 115-129).

In the documents of the Council of Pistoia, *Author of the Faith*, and others, where numerous propositions are proscribed under lower censures, it is not permitted for any Catholic to deny that these are infallible definitions. This consequence, however, also demonstrates the truth of the principle itself, because without it, the consequence itself could not stand.

c) The quality that is defined in a proposition applies infallibly to that proposition in the sense and manner in which it is intended in the definition. Therefore, those who believe that a proposition is called "temerarious" when it is asserted against strong reasons and against strong authority without sufficient foundation, also say that this quality, and not the falsity of the proposition itself, is defined in the censure of temerity. The same is affirmed with even greater force regarding the censures in which propositions are marked as scandalous, offensive to pious ears. (See Card. de Lugo, *de fide*, disp. XX, n. iii; Canons, I, Xli, c. U, ad finem.)

d) The infallibility of the Church and the Roman Pontiff is believed by divine faith because of the authority of the revealing God; the judgment, which is proposed through an infallible definition of the Church or the

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Roman Pontiff as true, is not, however, believed because it was revealed, but because of the revealed authority of the one who proposes it. Therefore, that which some call "ecclesiastical faith," we can say is a faith mediated by the divine.

Principle o". If the Church is infallible in guarding the deposit of faith, at least in the strict sense, and therefore in declaring the true meaning of revealed dogmas; then, by the same token, it is infallible in its judgment of the true meaning, of the intention and extent of its own authority and infallibility, or, which is the same thing, in its judgment of the conditions and of the objects in which its authority is divinely prescribed and in which the assistance of the Spirit of Truth is promised. This authority and infallibility are, indeed, a revealed dogma.

Corollary: It involves a contradiction to admit the infallibility of the Church in revealed dogmas, and at the same time to deny the authority of a definition that is presumed to actually exist, because the thing defined is not a dogma of faith.

Principle G". As from itself...

[*Latin ed. p. 768*]

152 APPENDIX III. In order that principles of revelation, whether they are supernatural or merely rational, may be understood and explained, and in order that they may pertain to the infallible teaching of the Church, and that, therefore (since truth cannot contradict truth), they may contain only errors that are discernible and condemnable from the revealed principles, in order to safeguard the deposit of the Christian religion, and to preserve and promote it among the faithful; it is equally certain that, just as in most sciences, men cultivate and develop sciences from purely natural principles and from human sources not revealed, so too in philosophy, both theoretical and practical, in history, geology, ethnography, etc., truths are found that are either revealed or are connected with revealed truths. The reason is that revelation contains not only supernatural truths, but also many things that can also be known from natural sources; or, in other words, that revelation and natural sciences have many principles in common. It is equally evident that, in these sciences, it is possible to establish hypotheses as principles, and to arrive at conclusions, which, either by themselves or through reason, contradict the truths of revelation.

"Just as sacred doctrine is founded upon the light of faith, so philosophy is founded upon the light of natural reason. Therefore, it is impossible that anything which is of philosophy should be contrary to that which is of faith... But if anything is found in the sayings of philosophers that is contrary to faith, this is not of philosophy, but rather an abuse of philosophy, arising from a defect of reason." (St. Thomas, *In Boethium de Trinitate*, Prologue, q. 2, a. 3. Author's Note).

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"(2) 'The proper knowledge of this science (Theology) is that which is obtained through revelation, and not that which is obtained through natural reason (objective knowledge). And therefore, it does not pertain to it to prove the principles of other sciences, but only to judge them. Whatever is found in other sciences that is contrary to the truth of this science, is to be condemned as false.'" (St. Thomas, 1 q. 1, a. 6, ad 2. Author's Note).

Corollary a). Although philosophy and the other natural sciences have in many respects a common object (material), it is evident that in these sciences, it is not from revelation and from the authentic teaching of the Church, but from reason and from natural sources, that hypotheses are established as principles, and that conclusions are reached; nevertheless, the teaching of the Church can and indeed must, from the principles of revelation, demonstrate errors.

[*Latin ed. p. 769*]

APPENDIX X, page 153, concerns those who oppose the integrity and safety of guarding the deposit of faith. Therefore, Catholic scholars must keep this norm before their eyes, according to the dictates of reason, so that they do not fall into errors; according to the dictates of faith, so that they do not fall into errors contrary to the truths of the faith; and according to necessity and intention, or simply or for specific reasons, to safeguard (1) Catholic doctrine. In such declarations, it is permissible that the truth of doctrine is not infallible, because the intention is not to decide from a hypothesis; it is, rather, the objective declaration of doctrine (either simply or for such reasons), and it is also subjective, insofar as it is safe for all to embrace it, and it cannot be rejected without violating due submission to the divinely instituted magisterium, to embrace it.

Some attempt to persuade Catholics, and therefore acknowledge the authentic magisterium of the Church, and nevertheless affirm that philosophy, as declared, is not subject to this norm, and that by doing so, the progress of science is hindered, and that the Church ought to abandon philosophy so that it may correct its own errors (Syllabus of Pope Pius IX, propositions X, XI, XII, XIV); these demand freedom to embrace errors through the abuse of philosophy, and deny the Church's right and office to safeguard the integrity and health of the doctrine of faith. See Vatican Council, Constitution on the Doctrine of Faith, chapter 4, concerning infallible security.

Corollary a). The authority of the magisterium instituted by Christ in the Church, with regard to the matter we are now discussing, should be considered in two ways: a) as in each act, it is under the assistance of the Holy Spirit for the infallible definition of truth, or as it is the authority of infallibility; b) or as an extension of the authority given to the Apostolic See, which is divinely entrusted with the custody of the deposit, the power to nourish the entire Church for the salvation of souls, can prescribe theologi-

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cal opinions, either as things to be followed or as things not to be followed, not with the intention of definitively deciding the truth, but also without that intention, to safeguard the doctrine, which we might perhaps call the authority of universal ecclesiastical providence.

Corollary b). The authority in question, although given to nourish the entire Church, is not, however, given with its full intensity (if it is permissible to speak in this way), nor with the ultimate intention of definitively defining the truth, but rather to the extent that it has seemed necessary or sufficient to safeguard the doctrine, as we might perhaps call the authority of universal ecclesiastical providence.

(1) It is manifest that these two things, infallible truth and security, do not coincide, because otherwise, no doctrine could be called probable or more probable, and yet be safe. (Author's Note.)

[*Latin ed. p. 770*]

154 A I ' PENNIX III. The infallibility of definitions cannot proceed from a fallible Pope. Therefore, these matters must be communicated to others, such as his advisors, whom we mentioned above, who act with his intention and in his name. If the Pope's intention is manifestly made known (1), then when is a definition considered infallible? Universal authority is provided by some sacred ecclesiastical body, such as the Roman Congregation; this Congregation, we have said, is not independent but is subject to the Pope, and its promulgation is communicable, and the definition itself is communicated only by the Pope, either explicitly or implicitly. The author of the subject of infallibility is the visible head of the Church, considered in itself, and also this visible head as the component and informing part of the Church, which is itself constituted as infallible by the assistance of the Holy Spirit. Two corollaries, among others, were established: one of which is as follows.

According to the declaration of the Council of Vatican, the Pope is said to speak from the chair when he fulfills the office of Pastor and Doctor of all Christians, exercising his supreme apostolic authority, and defines doctrine concerning faith or morals to be held by the entire Church. For the apostolic chair is nothing other than the supreme authentic magisterium, whose definitive doctrinal judgment obligates the entire Church to assent. This intention of defining doctrine, or of teaching a definitive judgment with binding authority for the entire Church, must be manifested and known through clear indications. However, no particular form is essential that the Pope must employ to manifest this intention. Although there are certain solemn modes that express the utterance from the chair, and therefore the Pope never uses them except when speaking from the chair, such as dogmatic bulls: nevertheless, this form is not essential and exclusive, so that without it, the Pope, as Pastor and Doctor of all Christians, cannot define doctrine concerning faith or morals to be held by

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the entire Church, and condemn errors opposed to it, and thus manifest his intention.

The second corollary is as follows.

In the documents of Councils and Popes, in which the intention to issue doctrinal definitions is most certainly stated, there may be and often are included more things, of which a definition is not intended; such as things said in passing or incidentally, which are often stated indirectly; and also, arguments presented to support the definitive judgment itself, etc. Although these may have great authority, they are not infallible definitions.

Likewise, there may be and are public documents of Popes in which they intend to warn, advise, reprehend, or prohibit the propagation of some opinion or error concerning doctrine of faith or morals, without intending to issue a definitive judgment that binds the entire Church; and therefore, it is not a statement from the chair. For often the Popes respond to the questions of a particular bishop, explaining their opinion on the matters proposed, without giving a judgment that they intend to obligate the faithful to believe. (Melch. Canus 1.6 c. 8 ad 7).

In this category, for example, are included the two letters of Honorius I to Sergius of Constantinople (which, however, have no heretical meaning). It may arise that there is doubt about some documents of the Popes, whether they contain a statement from the chair and a definition of doctrine; we do not deny that this also happens sometimes with documents of the Councils, of which we have an example in the different opinions that have been and still are about the Instruction for the Armenians issued in the Council of Florence, whether what is taught there specifically about the matter and form of the Sacraments are dogmatic definitions, or merely instructions to be observed in practice. When such doubts arise, theologians rightly point out that in judging this matter, the judgment of wise men is very important, and (even more so) the sense and consensus of the Church. (Tanner, de Fide q. 4 dub. 6. n. 262).

[*Latin ed. p. 771*]

IX. Concerning the extension of certain matters to certain Most Holy Congregations of Cardinals. "Corollary c). It is false that the authority by which assent of the intellect is due is solely the authority of the Revealer God, or of the Church, or of the Pope infallibly defining; for there are many degrees of religious assent. In the present case, we must distinguish between the assent of faith properly and immediately divine, due to the authority of the Revealer God; the assent of faith which we have mentioned above, mediately divine, due to the authority infallibly defining doctrine as true, but not as revealed; and the religious assent due to the authority of the universal ecclesiastical providence in the sense declared."

His Holiness Pope Pius IX clearly explained this very doctrine in letters

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written on December 21, 1863, to the Archbishop of Munich, the beginning of which is: "We gladly received your [missive], most illustrious one, and we wish to make it clear to you that we have not wished (those who have been associated with the literary congress of Munich, but also to those to whom this is extended) to extend those things which are transmitted throughout the entire Church as divinely revealed, so that they may be retained by the constant and universal consent of Catholic theologians as pertaining to the faith. But since it is a matter of that submission to which all Catholics are bound who are engaged in contemplative sciences, so that they may present benefits to the Church in their writings, therefore the same learned men must acknowledge that it is not enough for prudent Catholics to receive and venerate the aforementioned dogmas, but also that they must submit to those decisions which are made by the Pontifical Congregations concerning doctrine, and also to those chapters of doctrine which are retained by the common and constant consent of Catholics as theological truths and conclusions, so that opinions contrary to those same doctrinal chapters may not be called heretical, but may deserve another theological censure."

Furthermore, the authority of the universal ecclesiastical providence, which we have declared, does not reside in any particular person, but in the Supreme Pastor; however, particular providence is subordinate to the Supreme Pastor, and also pertains to the bishops in their dioceses. Indeed, in the internal forum and in the order of directing spiritual life in their own way, it pertains to the directors of souls.

[*Latin ed. p. 772*]

156 APPENDIX III. It sometimes happens that, in order to avoid causing scandal to the faithful, an interpretation of Scripture, which is not merely in accordance with the will, but also with the understanding of the Gospel, may be more readily accepted by the majority, even if it appears somewhat improbable. It is not the condition of infallibility that the understanding of the one commanding must be perfect, in order that obedience and submission may be rendered; but rather, the process of criminal investigation in the year 1633, according to which, for those accused, nothing could be judged other than what is contained in the final sentence of the judges... See *Revue des sciences Ecclésiastiques*, 2nd Series, Vol. 3, pp. 403 *seq.*, 247 *seqq.*. Furthermore, in that decree of the Cardinals of the Holy Office, concerning the object of the authentic magisterium, which is the infallible safeguard, the explanation and defense of the deposit against encroaching errors, not a single word, either directly or indirectly, is found concerning the Pope. The documents can be read in Giovanni Battista Riccioli, *Almagesto Nuovo*, p. I, 9, section 4, proposition 40, pp. 496 *seqq.* However, in that state of affairs, and in the matter not yet settled, when the truth of the astronomical system was not yet fully proven, nothing was presented

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as a foundation for the interpretation of Scripture, other than the obvious sense. In the Council of Constance, (so the author states), in sessions VII and XV, in the *Bullae de confirmatione*, 45 articles of John Wycliffe were condemned, and 30 articles of John Hus were condemned under these censures: some articles were notoriously heretical and rejected by the Holy See, others were not Catholic, others were erroneous, others scandalous and blasphemous, some were offensive to pious ears, some were rash and seditious. These censures, however, did not pertain to the authority of the Pope. (c) This author demonstrates, citing the testimonies of witnesses of that time, which, since they are less relevant to our matter, we omit for the sake of brevity. The opinion of Galileo, which was judged to be contrary to Scripture, did not pertain to the authority of the Pope.

[*Latin ed. p. 773*]

To these propositions were appended certain clauses, but the entire list was presented as a whole, so that no proposition could be found to which none of the listed clauses did not apply, and no clause was included that did not pertain to some of the propositions; this form was subsequently generally followed by the Supreme Pontiffs, whenever many propositions were to be condemned at once, as Leo X did in the very Bull, *Exsurge*, against Luther, Gregory XIII and Pius V against Baius, Innocent XI against Michael Molinos, the pseudomystic, Alexander VIII against 31 propositions of the Jansenists, Innocent XII against 23 propositions from the book of Fénélon (of which, however, none were condemned as heretical), Clement XI against 101 propositions of Quesnel (in the Bull, *Unigenitus*), etc. In the dogmatic Bull, *Auctorem fidei*, to cut off the deceptions of the Jansenists, Pius VI appended individual censures to the doctrines of the Pistoiese.

"Regarding the meaning of the various clauses, it must first be considered what is meant by propositions that are called heretical, erroneous, or rash, because these censures occur most frequently, and the others are more easily understood in relation to them."

a) A proposition is heretical, which is opposed (either contrarily or contradictorily) to a truth, concerning whose revelation there is certain knowledge sufficiently proposed in the Church. Therefore, both revelation and sufficient proposal in the Church are required, in order that the doctrine opposed be heretical. It is not sufficient that the truth be contained in objective revelation, as long as it has not been sufficiently proposed; otherwise, a proposition that calls into doubt, for example, the supreme authority of several deuterocanonical books, or that denies the Immaculate Conception of the Blessed Virgin before the solemn definition, should be declared heretical. This mode of speaking is avoided because it is odious, and it is not true in itself, because heresy includes the notion of opposition to a profession, of which there is certain knowledge in the Church. Although,

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if such a proposition, contrary to revealed truth but not yet sufficiently proposed, were to be called materially, but not formally, heretical, the entire discussion would almost be about the manner of speaking. However, it is not required for the censure of this proposition that the author himself be aware of the revelation. For here we are not dealing with the sin of heresy, but with a proposition that is heretical in itself, and the good faith of the author is irrelevant to that reason. Therefore, propositions can be, and often are, condemned as heretical, even though they did not begin to be so at that time, but were already heretical before; therefore, the author of the proposition is not necessarily guilty of the crime of heresy, nor is he declared to be so. Conversely, one to whom it is sufficiently known about the revelation of a truth, even if it has not yet been universally sufficiently proposed so that all are bound to believe, can commit a sin against the faith by denying it, even though the proposition stating the denial, in its declared sense, is heretical and subject to the censure of heresy.

[*Latin ed. p. 774*]

APPENDIX No. » It is evident by itself, and is confirmed by the foregoing, that the task of defining the doctrine contained in revelation, which has not yet been sufficiently set forth, pertains to those who are authentic doctors and judges in the matter of faith for the entire Church, namely, to the Supreme Pontiff and to the Ecumenical Council. In such a definition, there is certainly contained a sufficient and most clear exposition of the faith for the entire Church, and this itself contains, or (more often) explicitly adds, a condemnation of heresy contrary to the doctrine, which, up to that point, had not been heretical in the formal sense that we have described.

Regarding the explanation of that first condemnation, there is agreement among all, at least with regard to the matter itself; but there is great diversity of opinions concerning where the remaining condemnations, not only in a general but in a strict and specific sense, must be declared. In general, any false proposition is erroneous, and therefore, in the theological matter about which the condemnations speak, any proposition that is contrary to theological truth, and for which there is sufficient reason to believe, and therefore, in the highest degree, contains heresy; and any heretical proposition, and in that sense erroneous, is also, at least in itself (setting aside the intention of the one who proposes it), rash. However, in the practice of the Pontiffs, and therefore in the practice of theologians, both the later condemnation, that is, heresy, and the rash proposition are distinguished from error, as a lower degree from a higher degree. Therefore, an erroneous proposition, as well as a rash proposition, is condemned, and is condemned under these designations, insofar as it is opposed in some way to theological truth, but not in such a way that it is certainly opposed to truth, which is certainly known or defined to be the truth of the faith, but rather in a lower degree; and the condemnation of a rash proposition is again lower

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and less serious than the condemnation of error.

Now, in determining the proper and specific notion by which each of these condemnations is distinguished from all others, considering together the diverse theories of theologians, and especially their practice, as they use these terms, and as they have been used, most especially, by the Supreme Pontiff himself in the Bull *Auctorem Fidei*, the following statements are sufficiently established:

b) An erroneous proposition is a proposition that is contrary to theological doctrine, which is either universally taught and held in the Church, or is defined as certain, and is at least closely connected with the doctrine of faith, but is not proposed as a doctrine revealed in itself, and therefore, a matter of faith. Therefore, the proper reason for error is derived from the proper reason of the opposed truth. The characteristics of this are: first, a positive characteristic, namely, certainty derived from the universality of consensus, as in the case of a theologically certain proposition, and from the close connection with the doctrine of faith; second, a negative characteristic, namely, that the doctrine is not proposed and preached as certainly revealed and a matter of faith. The positive characteristic serves to distinguish this condemnation of error from other, lower condemnations, as will be seen later; the negative characteristic...

[*Latin ed. p. 775*]

APPENDIX Iti . 159 distinguishes this from the preceding one, namely, from the absolutely certain declaration that a proposition is heretical (1). The reason is that while it is permissible to propose universally and with certainty, as if it were a matter of faith, that something is certain, it is not, however, declared to be a matter of faith, for to declare something to be simply a matter of faith would require a double certainty: either because there is not sufficient consensus to establish that it is a true proposition, or because the proposition, although true, is opposed to the faith, and therefore must be believed as a matter of faith; and therefore, it is clear that every proposition that is condemned as heretical is also erroneous, but not every proposition that is condemned as erroneous is necessarily condemned as being close to heresy; for the censure of an erroneous proposition is broader than the censure of a proposition that is close to heresy.

c) The censure of temerity, as we have said, is of a lower degree than the censure of error. A proposition that is opposed in its direct sense to a theologically certain conclusion, and which, therefore, cannot be considered merely probable, but is contrary to a doctrine that is common, is censured as temerity, e.g., the statement in Bulla XXII concerning the Author of the Faith; thus, to deny it would not be permissible. Since the censure of temerity is of a lower degree than the censure of error, a temerous proposition is compared to an error, although the error is of a higher degree, as we have said in the text, or its connection with revealed doctrine has not yet

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been sufficiently known. The censure itself is pronounced by the Church to manifest this connection and the degree of certainty. I have said that the degree of certainty is at least defined as that which corresponds to the censure. Where the supreme censure of heresy is not declared, it is sometimes sufficient for the Church to define the degree that is merely certain and to be held, as is evident from several propositions of the Pistoia theologians, which are condemned as at least erroneous, and from the declaration of the Council of Vienna concerning the infusion of grace and virtues in the valid sacraments, if it is compared with the doctrine of the Council of Trent, Session 6, chapter 7. (Note of the praised Author.)

(1) It must be carefully noted the great difference between authentic judges of doctrine (the Council or the Pope) and private doctors. The latter can only scientifically determine the degree of censure or express an opinion on it, and in their judgment (unless the censure has already been authentically fixed) they have as their norm the notes about which we speak in the text. The Church or the Pope, as the authentic judge, in examining, in addition to the definition (about which we will say something else), also has before his eyes those notes; but in rendering judgment, he is under the assistance of the Holy Spirit, so that the truth and infallibility of the final judgment and definition depend not on this assistance, nor on the preliminary examination, nor even necessarily on the truth of the foundations on which he may be moved, but on the assistance of the Holy Spirit. Therefore, when authentically defining the degree of censure, he thereby defines the degree of certainty in the doctrine opposed to it, which corresponds to the defined censure; although, for example, in the censure of an erroneous proposition, the consensus that manifests the error, as we have said in the text, or the connection with revealed doctrine may not yet have been sufficiently known. The censure itself is pronounced by the Church to manifest this connection and the degree of certainty. I have said that the degree of certainty is at least defined as that which corresponds to the censure. Where the supreme censure of heresy is not declared, it is sometimes sufficient for the Church to define the degree that is merely certain and to be held, as is evident from several propositions of the Pistoia theologians, which are condemned as at least erroneous, and from the declaration of the Council of Vienna concerning the infusion of grace and virtues in the valid sacraments, if it is compared with the doctrine of the Council of Trent, Session 6, chapter 7. (Note of the praised Author.)

[*Latin ed. p. 776*]

APPENDIX III. 160. An opinion will be considered erroneous when it is directly opposed to the truth, or when it is opposed to the truth in a manner less closely connected with the doctrine of faith. Since this is to be judged by a greater or lesser moral estimation and theological prudence, it is not surprising that theologians, unless perhaps the Church itself has de-

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fined the degree, often waver between these two judgments, and the same propositions which some call erroneous, others call rash, and they often combine both, saying that a proposition is either erroneous or at least rash. Therefore, a proposition is considered rash in its direct sense, as are several propositions in the cited Constitution, *Auctorem fidei*, X, XLVII, LXIV, LXXVII, LXXVI. It should be noted that we have previously pointed out the more general meaning of rashness, by which any heretical and erroneous proposition can be called rash. Finally, it is clear that, when dealing with theological censures, rashness is not to be understood as merely subjective, which is opposed to prudence and counsel, in the sense that "rashly" means whatever is said tumultuously without necessary consideration and reasoned judgment.

d) It is much easier to determine the proper meaning of other censures, which are connected with the aforementioned ones, and are like intermediate terms. A proposition is called heretical when it provides a grave reason for judging, based on the authority of the mind and analogy, that it coheres with a heretical principle and proceeds from a heretical author; a suspicion of heresy, which has something pre-established (as were XXVII, XXXI, LIV above), so that it reveals suspicion implicitly, so that a reasonable judgment can be made about it. Furthermore, a proposition can be rash in its mode, insofar as it unjustly condemns a doctrine that is probable or more probable; thus, the proposition XXVI of the Pistoia Council, in which they explode the doctrine of limbo for children, is called rash, as well as Pelagian.

Since one proposition can be opposed to the truth in many ways, it can and often does affect several distinct censures. If, at times, sentences are condemned as rash and erroneous (as, for example, with regard to heresy, and as wise and erroneous). A proposition is considered "maleficent," which, although it admits of a meaning of words less commonly used, in the common meaning of words, contains something contrary to sound doctrine.

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